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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

* * * * *
*
UNITED STATES OF AMERICA *
*
v. * 06-CV-354-PB
* November 4, 2008
GENERAL ELECTRIC COMPANY * 1:30 p.m.
*
* * * * *

Day 1 - Afternoon Session
TRANSCRIPT OF BENCH TRIAL
BEFORE THE HONORABLE PAUL J. BARBADORO

Appearances:

For the Government: Catherine A. Fiske, Esq.
Peter M. Flynn, Esq.
Laura J. Rowley, Esq.
Donald G. Frankel, Esq.
U.S. Department of Justice

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William M. Cowan, Esq.
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General Electric Company

Court Reporter: Diane M. Churas, CSR, CRR
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1 I N D E X

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WITNESS: DIRECT CROSS REDIRECT RECROSS

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WALLACE HOOPER

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By Ms. Fiske 3

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By Mr. Cowan 95

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1 BEFORE THE COURT

2 (Wallace Hooper resumed the stand.)

3 DIRECT EXAMINATION (cont'd)

4 BY MS. FISKE:

5 Q. Mr. Hooper, before the break you were talking
6 about the first loads of Pyranols that arrived from GE
7 at the Fletcher site. Which location did that arrive
8 at?

9 A. They were unloaded at Elm Street.

10 Q. And you said it was a trailer truck that came
11 one a day or maybe more a day, or just one a day?

12 A. Well, I'm not sure. I know it was at least
13 one a day. There may have been two. I don't recall.

14 Q. And how many days would you say?

15 A. Well, I don't really recall. I'm not sure if
16 they came one day after another or whether there was a
17 day or two in between. I don't remember.

18 Q. Would you say it was at least two or three
19 truckloads? Four or five? How many?

20 MR. COWAN: Objection.

21 THE COURT: Overruled.

22 A. I don't know for sure. It sticks in my mind
23 that there were six of them, but I could be wrong.

24 Q. Sticks in your mind that there were six of
25 them, but you could be wrong.

1 A. I could be wrong. It was a long time ago.

2 Q. And were they all 18-wheelers?

3 A. I believe so

4 Q. What did Mr. Fletcher do with these first
5 truckloads of Pyranol?

6 A. Well, we had them piled up in the yard, and of
7 course he bought them to resell mostly, and he had the
8 chemist check for good drums. He wanted to be sure we
9 had good drums, come inside and put up five-gallon cans
10 of it to be used as samples for people who had asked for
11 them.

12 THE COURT: Can you explain to me a little
13 more what you mean? Are you saying that from each drum
14 he would take a five-gallon can?

15 THE WITNESS: He brought in I forget how many
16 drums, but he filled five-gallon cans out of that drum
17 to get ten, eleven out of a drum, and he'd cap them up,
18 and they were used as samples to advertise the product,
19 and he advertised that he would send them a sample.
20 Well, that was the samples that he sent out to potential
21 customers.

22 THE COURT: Oh, I see. So he took a certain
23 number of paint cans full of this stuff and used it as a
24 way to send samples out to people that might want to buy
25 the stuff from him.

1 THE WITNESS: Yes.

2 THE COURT: Okay. After these trucks got
3 there, you said the 55-gallon drums were stored out in
4 the yard?

5 THE WITNESS: Yes.

6 THE COURT: Were they stacked one on top of
7 each other or were they just stored beside each other?

8 THE WITNESS: They were stacked on top of each
9 other.

10 THE COURT: How many layers would they have?

11 THE WITNESS: I would say -- I forget. I
12 would guess three or four.

13 THE COURT: You are not sure, but more than
14 one layer, you are sure of that.

15 THE WITNESS: Oh, yes, more than one layer.

16 THE COURT: How big an area was this that was
17 taken up by these drums?

18 THE WITNESS: Oh, we had quite a big area
19 there, good-sized area.

20 THE COURT: Was the area as big or bigger than
21 this courtroom?

22 THE WITNESS: Bigger than this courtroom.
23 Well, the whole area.

24 THE COURT: I see. The area where the drums
25 were.

1 THE WITNESS: Maybe not as wide, but I would
2 say deeper.

3 THE COURT: Would it be safe to say based on
4 your recollection that there were more than a hundred
5 drums stored there?

6 THE WITNESS: I would believe there was.

7 THE COURT: Can you give me any better
8 estimate as to the number?

9 THE WITNESS: No, I really can't for sure.

10 THE COURT: Okay.

11 Q. BY MS. FISKE: Can you show us Exhibit 30
12 again and zoom in on Mill Street, the shaded area. I'm
13 sorry, Elm Street.

14 A. Twelve.

15 Q. Can you mark on this exhibit where the drums
16 were stored?

17 THE COURT: If you touch the screen, it should
18 make a line.

19 A. The original drums.

20 Q. Right. We are just talking now -- this whole
21 time we have been talking about are the first load of
22 drums that arrive.

23 (Pause.)

24 Q. Is that the way you want your mark to look or
25 do you want me to erase it and --

1 A. Better erase it. They didn't go quite to the
2 river.

3 Q. And you said they were stacked on top of each
4 other?

5 A. Yes.

6 Q. Were they stacked on their sides or upright?

7 A. On their sides, the original ones.

8 Q. Right. That's all we're doing. And you said
9 that Mr. Fletcher sent out samples looking for customers
10 for this material?

11 A. Yes.

12 Q. Did he ever find anyone interested in it?

13 A. Yes.

14 Q. Who's that?

15 A. I don't remember the names of the companies or
16 people that might have ordered it, but there were --
17 orders came in, quite a few as I recall.

18 Q. Over how many years were you looking for --
19 over how much time was he looking for customers for this
20 material?

21 A. Well, he sold most of these initial drums that
22 he received and then he was looking for more. He found
23 he could sell it. Probably maybe three or four years.
24 I'm not sure.

25 Q. So over a course of three or four years he was

1 looking for customers?

2 A. About that I would say.

3 Q. Okay. Did Fletcher's ever obtain anymore
4 Pyranol after this first shipment?

5 A. Yes.

6 Q. When did he first start receiving more
7 Pyranol?

8 A. I believe it was '57.

9 THE COURT: Can I go back and ask you a little
10 more about the early shipments in what you talked about
11 as being the early 1950s. Is that about the right time?

12 THE WITNESS: Somewhere in there. I'm not
13 sure of the year.

14 THE COURT: Sure. Mr. Fletcher was also
15 making paint at the site at that time?

16 THE WITNESS: Yes.

17 THE COURT: And did you have familiarity with
18 his paint-making operations?

19 THE WITNESS: Yes.

20 THE COURT: How many people were there working
21 in the paint-making operation?

22 THE WITNESS: Well, there was maybe four or
23 five, year round. Of course he hired in extra help in
24 the summertime because that was the busy season. Not
25 only did he do that, but he brought men down from the

1 paper mill when they wasn't busy in the work there.

2 THE COURT: Four or five full time and
3 seasonally he would hire more people?

4 THE WITNESS: Yes.

5 THE COURT: Were you familiar with the actual
6 paint-making process that he used?

7 THE WITNESS: Yes.

8 THE COURT: When he would make paint, would he
9 make it in batches?

10 THE WITNESS: Yes.

11 THE COURT: And how much paint would be in one
12 of these batches?

13 THE WITNESS: Well, it varied. We had tanks
14 that we made a hundred gallons in or under 25, and then
15 he had larger tanks that could make 300 gallons of paint
16 in. And then after he bought the big, big machine, the
17 big, big disperser, he could make 1,000, 1,200 gallons
18 in a tank. Big tanks.

19 THE COURT: When did he buy that?

20 THE WITNESS: It must have been sometime in
21 the sixties. I'm not sure.

22 THE COURT: Okay. Until then he was using
23 100-gallon and 300-gallon batches that he would make?

24 THE WITNESS: Yes.

25 THE COURT: I see. And how many of these

1 batches would he make in a typical week?

2 THE WITNESS: Oh, a lot of them. He would
3 turn out a thousand gallons of traffic paint a day.
4 After he got the big ones, he probably turned out more.

5 THE COURT: Before he got the big tanks, you
6 think in the fifties he could turn out a thousand
7 gallons of traffic paint a day?

8 THE WITNESS: Oh, easy.

9 THE COURT: And did he do that on a regular
10 basis?

11 THE WITNESS: Well, of course he got the bids
12 from the State of New Hampshire usually, or he lost them
13 a couple of times, plus others, selling it to other
14 towns and communities and things. He made a lot of it.

15 THE COURT: So he made traffic paint. What
16 other kinds of paint did he make?

17 THE WITNESS: Interior paints, house paints,
18 enamels.

19 THE COURT: Was he running his own stores at
20 this time in the early fifties?

21 THE WITNESS: He started in the early fifties
22 I would say. First store he had opened was in
23 Manchester.

24 THE COURT: Did he sell it under his own brand
25 name?

1 THE WITNESS: Yes.

2 THE COURT: I see. Did he ever use any of the
3 Pyranol in the early fifties in the paint-manufacturing
4 process?

5 THE WITNESS: Yes. We made what they called a
6 rubber-base paint to be used for concrete floors, cement
7 block buildings, brick buildings, and things like that.
8 And also the pool paint that we made was basically the
9 same formula. They did take -- he was ordering in
10 Pyranol -- I mean Aroclor to do it. We used to make out
11 these slips and send to the office whenever we was
12 running out of the raw material. So send a slip into
13 the office that we needed Aroclor. We was running out
14 of it. Mr. Fletcher, I remember him coming out himself
15 and saying we've got this material in the backyard that
16 you can use. So he wasn't going to order any Aroclor.
17 He wanted the chemists to go out and make sure we've got
18 some good drums, a couple good drums to use. After that
19 we used Pyranol instead of Aroclor.

20 THE COURT: Were you involved at all in the
21 process of making that pool paint or the floor paint?

22 THE WITNESS: Yes.

23 THE COURT: When you'd make a batch of, say, a
24 hundred gallons of that kind of paint, how much Aroclor
25 or Pyranol would you put in a 100-gallon tank?

1 THE WITNESS: Five gallons.

2 THE COURT: Five gallons per about
3 100 gallons?

4 (Witness nods head affirmatively.)

5 THE COURT: I see. Do you remember the
6 chemists actually going out to take samples of the
7 Pyranol?

8 THE WITNESS: Sure. He went out and picked
9 out the drums for us to use.

10 THE COURT: You're sure, but do you have a
11 memory of it, or is it just something you are assuming
12 is the case?

13 THE WITNESS: I'm sure Mr. Fletcher said the
14 chemist -- that was Clyde Bishop at the time -- would
15 check the drums and be sure we got good drums.

16 THE COURT: Okay. Thank you. Go ahead.

17 Q. BY MS. FISKE: Just to ask you a few more
18 questions about the paint-making process. Did you say
19 that there were formula cards that you used to make the
20 paint?

21 A. Yes.

22 Q. Did a formula card ever list Pyranol as an
23 ingredient?

24 A. I think -- I think they used to put Aroclor on
25 there, but we used Pyranol, if I remember right.

1 Q. What type of paint listed Pyranol as a
2 ingredient?

3 A. Well, it would have been only the rubber base
4 paint that we made. I don't remember using it in other
5 paints. For one reason I say that, Pyranol was not
6 compatible with all the paint thinners.

7 Q. Was Pyranol compatible with traffic paint?

8 A. No.

9 Q. How did the volume of rubber-based paint
10 compare with the volume of traffic paint made by
11 Fletcher?

12 A. It was a smaller volume compared to the
13 traffic paint.

14 Q. How much Pyranol was used a year to make
15 rubber-based paint would you say?

16 A. I'm not sure. Maybe two or three drums.

17 Q. Could any of the drums of Pyranol be used to
18 make paint?

19 A. Other than rubber base?

20 Q. No, any type of --

21 THE COURT: I think she's asking you do you
22 know whether all of the drums on site of Pyranol were
23 suitable for use in making the paint.

24 A. No.

25 Q. How do you know that?

1 A. Well, a lot of the drums are thinned out with
2 the material that they cleaned the tanks with at GE, and
3 some of it I don't know what it was.

4 Q. And that was not suitable to be used in paint?

5 A. No.

6 Q. How would you describe the Pyranol that was
7 suitable to add to rubber-based paint?

8 A. It was a thick, heavy material.

9 Q. When Fletcher's got the Pyranol from GE, did
10 he get it because he wanted to use it to make paint?

11 A. I don't think so. I think he bought it just
12 to make a dime on it and a profit.

13 Q. Let's go back to where we left off before we
14 jumped to this other topic. We had been talking about
15 the first shipment that had come in, sending out cans
16 and samples, looking for customers, and you had said
17 that Fletcher's did get additional Pyranol from GE you
18 thought sometime in '57. How did Fletcher's receive
19 this later Pyranol in around '57?

20 A. Our truck went out to GE.

21 Q. How do you know Fletcher's truck went out?

22 A. Because I drove out.

23 Q. Is that when Fletcher's first started driving
24 out to get scrap Pyranol from GE?

25 A. Yes.

1 Q. Do you recall about how many years that was
2 after those first trailer trucks arrived?

3 A. I don't really remember. The only thing I
4 believe I remember was that he was running out of it
5 because he'd sold so much of it and he was looking for
6 other places to get it.

7 Q. Can you describe the process of picking up
8 Pyranol at GE?

9 A. Well, drive the truck out to GE.

10 Q. What time of the morning would you leave?

11 A. Well, I used to leave about 2:00 in the
12 morning. The first trip I know I went earlier than that
13 because I wasn't sure how long it would take to get
14 there, but I found out afterwards usually about 2:00.

15 Q. Where did you go on that first trip?

16 A. Hudson Falls.

17 Q. Where did you go at Hudson Falls on that first
18 trip?

19 A. The GE plant.

20 Q. Was there a specific area of the GE plant that
21 you went to?

22 A. Yes, the salvage area.

23 Q. Can you describe that area and what kind of
24 materials were stored there?

25 A. Well, that was the basement of a building and

1 there was barrels stored there. There was anything I
2 guess that GE had sent to the salvage department that
3 they didn't need anymore or want anymore. The salvage
4 department I suppose is to get rid of it somehow.

5 MR. COWAN: Objection, move to strike.

6 THE COURT: I can tell you this. I'm not
7 going to strike it, but I will not credit when the
8 witness says I suppose or I'm certain that -- unless
9 it's apparent to me from the record that the witness has
10 personal knowledge, I just am not going to consider it,
11 okay, and I will do it throughout the trial.

12 MR. COWAN: Thank you, your Honor.

13 Q. Was there somebody in charge of the salvage
14 area that you were at?

15 A. Yes.

16 Q. Who was in charge of that area?

17 A. Mr. Tony Metevier.

18 Q. Was that the only place that you went on that
19 first trip?

20 A. I'm not sure now.

21 Q. Did you ever go to any other locations at GE
22 to pick up Pyranol?

23 A. Yes, at Fort Edwards, New York.

24 THE COURT: What kind of truck were you taking
25 with you?

1 THE WITNESS: The first trips we went out when
2 we had a Studebaker truck and it had a rack-type body.

3 THE COURT: How many drums could it hold?

4 THE WITNESS: If I remember right, I think it
5 was 18 drums standing up. We didn't lay them down.

6 THE COURT: Would you generally come back with
7 a full load?

8 THE WITNESS: As long as they had a full load
9 I would.

10 THE COURT: Okay.

11 Q. BY MS. FISKE: When you went to Fort Edwards,
12 where did you go at Fort Edwards?

13 A. Fort Edwards the drums were kept outside,
14 outdoors on pallets. There was a big tall fence around
15 that factory.

16 Q. What was that area of GE called?

17 A. I guess salvage area I would say.

18 Q. Why do you say that that's what it was called?

19 A. Well, they called it that at Hudson Falls; so
20 I suppose it's called the same at Fort Edwards.

21 Q. Did you ever hear anyone from GE at Fort
22 Edwards call it the salvage area?

23 A. I don't recall.

24 Q. Can you describe what kind of material was
25 stored there at -- what you are referring to as the

1 salvage area at Fort Edwards?

2 A. All that I recall outside was the drums.

3 Q. Was there anyone in charge of that area at
4 Fort Edwards?

5 A. There was a forklift operator that I always
6 had to see that loaded the truck.

7 Q. Do you know who he reported to?

8 A. Well, Mr. Metevier would call him and tell him
9 that I was coming down as I recall, and say, oh, he went
10 to Hudson Falls first.

11 Q. And how do you know that?

12 A. I think I was in the office at Hudson Falls
13 when he called him sometimes.

14 Q. Was any paperwork involved in the transaction?

15 A. Yes.

16 Q. Can you describe that?

17 A. Well, they made out -- I'm not sure what you
18 call it, a bill of lading or whatever, and telling how
19 many drums there were and type of material.

20 Q. What would they write on it in terms of type
21 of material?

22 A. Scrap Pyranol I think, if I remember right.

23 Q. Did you have to sign anything?

24 A. Yes.

25 Q. Did anybody else have to sign anything?

1 A. I don't remember if Mr. Metevier signed it or
2 not. I know I did.

3 Q. Was he the person who gave you the paperwork
4 to sign?

5 A. Yes.

6 Q. Was there any other paperwork given or
7 exchanged?

8 A. Not that I recall.

9 Q. Was that the same process for Fort Edwards in
10 terms of the paperwork?

11 A. After I picked up at Fort Edwards, I had to go
12 back to Hudson Falls to get the paperwork as I recall.

13 Q. So the paperwork at Hudson Falls covered both
14 Hudson Falls and Fort Edwards?

15 A. Yes.

16 Q. When I asked if there was any other paperwork
17 involved, you never received any written materials about
18 how to handle Pyranol?

19 MR. COWAN: Objection.

20 A. Not that I recall.

21 THE COURT: Excuse me. Basis?

22 MR. COWAN: Leading.

23 THE COURT: Overruled.

24 Q. Were you given any protective clothing?

25 A. No.

1 Q. Was any information ever told to you verbally
2 about potential health concerns associated with Pyranol?

3 MR. COWAN: Objection, calls for hearsay.

4 THE COURT: Overruled.

5 A. Any information what?

6 Q. Given to you about -- verbally about potential
7 health hazards with Pyranol?

8 A. I don't recall any.

9 Q. Did you ever bring -- I'm moving to a new
10 topic. Did you ever bring any cash or a check to pay
11 for this material?

12 A. No.

13 Q. How often would you make the trip to Hudson
14 Falls?

15 A. As I recall, I usually waited for Mr. Metevier
16 to give a call and then I would go out.

17 Q. What would Metevier be saying when he gave a
18 call?

19 A. What's that?

20 Q. What would Mr. Metevier say when he made a
21 phone call?

22 A. I never talked with him on the phone. I
23 suppose he told how many drums he had.

24 Q. And after Fletcher's received the call from
25 Metevier, that's when you would be instructed to go?

1 A. Yes.

2 Q. And do you recall about how many times a year
3 that was?

4 A. No, I don't.

5 Q. You described a process where you went to
6 Hudson Falls and Fort Edwards and picked up material.
7 Did this happen over the course of several years that
8 you would do this?

9 A. Yes.

10 Q. And you would do it periodically during the
11 year?

12 A. Yes.

13 Q. Now I'm just going to ask you about the drums
14 themselves that you were getting. Please describe what
15 the drums containing the scrap Pyranol were like.

16 A. Well, they were secondhand drums they used. A
17 lot of them had other chemicals in them before, and most
18 of them -- as I recall anyway, most of them are closed-
19 head drums. I'm not sure, there may have been a few
20 open-end drums, but most of them were closed-head.

21 Q. Did they have any markings or labels on them?

22 A. Yes.

23 Q. Describe those markings or labels, please.

24 A. Well, usually they had them marked on with
25 paint, yellow paint or white paint, scrap 1499 I think

1 was the number. That was the number they had given
2 Pyranol anyway, whatever it was. And on the top of the
3 drum usually it would give the original product that
4 came in the drum new and the address and where it went
5 to and where it came from.

6 Q. Did the drums have any warnings on them?

7 A. I think probably they had warnings for the
8 original contents. I don't remember if they ever had
9 warnings for Pyranol.

10 Q. What about the condition of the drums in terms
11 of whether they leaked or not?

12 A. Some of the drums were not in good condition.
13 They were dented sometimes. Of course they are
14 secondhand drums. They were dented. They quite often
15 didn't put the caps on tight. They left the gaskets
16 off, so if you lay them down, the thinner ones would
17 have leaked for sure.

18 Q. How many would you say on a given trip would
19 leak the way you just described?

20 A. Well, I know, as I recall, most of them caps
21 were loose on them. They was just screwed down hand
22 tight.

23 Q. Does that mean that most of them would leak?

24 MR. COWAN: Objection.

25 THE COURT: Overruled.

1 A. A thinner one would if they were laid down.

2 Q. But you stack them upright, at least in the
3 truck?

4 A. Pyranol wouldn't be quite -- real good Pyranol
5 wouldn't be quite so apt to leak out as fast anyway
6 because it's so thick.

7 THE COURT: Can I ask you about that. I'm
8 trying to get a visual impression of this Pyranol. It
9 varied in its viscosity from drum to drum; right?

10 THE WITNESS: Well, the real good new Pyranol
11 was very, very thick.

12 THE COURT: When we say thick, thicker than
13 maple syrup?

14 THE WITNESS: Oh, yes.

15 THE COURT: Give me something that you can
16 think of that would help me understand how thick it was.

17 THE WITNESS: It was very thick. I would say
18 thicker than molasses.

19 THE COURT: Thicker than molasses, okay. And
20 then some of the lighter Pyranol, would it be a lot
21 thinner?

22 THE WITNESS: Yes, but that would be Pyranol
23 that had things mixed into it.

24 THE COURT: Okay. Gotcha.

25 Q. BY MS. FISKE: During the trip -- loading the

1 drums onto the truck, how many of them would leak on a
2 typical load?

3 MR. COWAN: Objection.

4 THE COURT: Overruled.

5 A. Well, I don't remember. I remember we started
6 taking a box full of gaskets and a bung wrench with us
7 so we could tighten them up before we left there. A
8 good share of them were just put in finger tight.

9 Q. Did the process of loading the drums onto the
10 truck cause them to leak because they needed to be
11 tipped?

12 A. We could have on the thinner ones.

13 Q. I want to follow up on some additional
14 questions that the judge was asking you about, the
15 contents of the drums themselves. Did you ever pick up
16 material that was not Pyranol?

17 A. Yes.

18 Q. Can you describe that?

19 A. Well, some of the drums even the chemists
20 couldn't figure out what the contents were, it was such
21 a mixture. I know we used to get quite a few of those,
22 and Mr. Fletcher bought some barrels of paint that they
23 had in the salvage department there once. I remember
24 Mr. Metevier asked me if I thought Mr. Fletcher would be
25 interested in them, and I said, well, call him and find

1 out. So he did and the next trip we picked those up
2 with the Pyranol.

3 Q. And did you ever get anything else besides
4 paint or this scrap Pyranol mixture that the chemist
5 couldn't figure out what it was, anything else besides
6 pure Pyranol that you got from GE?

7 A. Well, some Pyranol was mixed with a cleaning
8 agent, Tri-Clean D I think they called it.

9 Q. Anything else that you ever got from GE?

10 A. No.

11 Q. What about did you ever get any drums of pure
12 TCE? New trichloroethylene, did you ever get that?

13 A. Yes.

14 Q. Let's talk some more, again, about the scrap
15 Pyranol drums. Did all those drums look the same?

16 A. No. They were secondhand drums.

17 Q. The contents, I'm sorry, the contents of the
18 scrap Pyranol drum.

19 A. No.

20 Q. Tell me about the differences between what it
21 might look like.

22 A. Real Pyranol was thick, heavy. When they
23 cleaned the tanks out, those would be mixed drums with a
24 cleaning agent and the Pyranol. Then there were other
25 drums that nobody seemed to know what they were.

1 Q. Did you notice any difference between the
2 material that came from Fort Edwards or Hudson Falls?

3 A. Well, I do know one thing at Fort Edwards. We
4 got a lot more water in the drums because they were
5 stacked outside and the covers and bungs weren't in
6 tight, and the rain would go in and the snow would go
7 in. Snow would melt and go in. That was the place
8 where we got more water than anything else.

9 Q. And you described some of the drums were
10 pretty thick. You couldn't even pour it. Did you say
11 that?

12 A. What's that?

13 Q. Didn't you say that some of the material was
14 so thick you could hardly pour it?

15 A. Yeah, it was very thick. In warm weather it
16 poured a lot better than cold.

17 Q. What about, how thin were the thin drums?

18 A. Some were very thin.

19 Q. As thin as water?

20 A. I would say so.

21 Q. What about the color? Was the color more or
22 less the same?

23 A. Well, I think some of the thinner ones may
24 have been clearer. The drums as I recall the Pyranol
25 was mixed with the cleaner, that cleaner lightened up

1 the color of the Pyranol.

2 THE COURT: What's the color of Pyranol?

3 THE WITNESS: Well, light amber maybe. I'm
4 not sure what you'd call it. It wasn't clear.

5 Q. Was there any way from looking at the outside
6 of the drum, just looking at it, was there any way to
7 tell from looking at the outside of the drum what the
8 content of the drum inside was going to be like?

9 A. No.

10 Q. Could you tell the difference from the content
11 of a drum by shaking it?

12 A. Sometimes you could, yes, especially if the
13 drum wasn't full.

14 Q. And what kind of difference could you tell by
15 shaking it?

16 A. Well, especially if the drum wasn't full, if
17 you shake the drum you could hear it sloshing around in
18 there, liquid, but real Pyranol you wouldn't hear
19 because it was so thick.

20 Q. What did the GE employees at the time call the
21 material inside these drums?

22 A. I believe they called it scrap Pyranol.

23 Q. I'm going to switch gears a little bit. You
24 mentioned something about a chemist at Fletcher's. Tell
25 us about the process once you got back to Fletcher's

1 with the drums and how the chemists became involved.

2 A. Well, they would be opened and --

3 Q. What would be opened?

4 A. The drums. And they would ascertain if they
5 were real good Pyranol or not. Some were and some
6 weren't.

7 Q. And how do you know this?

8 A. Well, I witnessed it sometimes.

9 THE COURT: What ended up happening with the
10 drums that had Pyranol that wasn't good, if you know?
11 If you don't know, that's fine.

12 THE WITNESS: I've got an idea what happened
13 to some of it. I think Kamieniki got them.

14 THE COURT: Rather than idea though, do you
15 remember what would happen to them? Do you have
16 personal knowledge of what would happen to them?

17 THE WITNESS: Well, they'd be placed to one
18 side of the factory in a different area.

19 THE COURT: And would they remain there for a
20 long time?

21 THE WITNESS: Some of them did, yes.

22 THE COURT: Go ahead.

23 Q. BY MS. FISKE: What happened to the thicker
24 drums of scrap Pyranol? Was that put in a different
25 location?

1 A. Well, they would separate it as to what they
2 thought had Pyranol in it and the real Pyranol, and then
3 the other ones that they wasn't sure of would still be
4 in a different place as I recall.

5 Q. And were all these drums stored outside?

6 A. At Fletcher's?

7 Q. Yes.

8 A. Yes.

9 Q. You said the chemists didn't always know what
10 was in the drum?

11 A. Clyde Bishop was the chemist there in the
12 early days, and he would have checked them. And
13 afterwards, after he left, Victor McNulty was the
14 chemist there for several years and Mr. Fletcher had him
15 check all the drums, and I think he threw them out just
16 as bad as Clyde Bishop did. I remember McNulty saying I
17 don't know what's in a lot of these drums. It's such a
18 mixture. A lot of those drums did come from GE.

19 MR. COWAN: Objection, your Honor. Motion to
20 strike, hearsay. Answer's not responsive.

21 THE COURT: Put the question to him again.
22 I'm not sure what he said about personal knowledge.

23 Q. Were you there when the chemist was doing some
24 of the testing of the drums?

25 A. I without a doubt was on the premises, but I'm

1 not sure I was out in the yard with him.

2 Q. I thought you said that you witnessed the
3 chemist testing the drums?

4 A. Well, I did I guess.

5 Q. And while you were witnessing the chemist
6 testing the drums, what did he say about some of the
7 drums while you were standing there?

8 MR. COWAN: Objection.

9 THE COURT: That's overruled.

10 A. I remember him saying that a lot of the drums
11 he just didn't know what was in them as far as it was
12 such a mixture that he couldn't tell.

13 Q. And what did he say to do with those drums?

14 A. The chemist?

15 Q. Yes.

16 A. I'm not sure he said anything to do with them.

17 Q. How did those drums come to be stored in a
18 separate location on the property than the drums that
19 were pure Pyranol?

20 A. Well, Mr. Fletcher I believe told him to do
21 that.

22 Q. Did anybody -- did you ever see anybody
23 physically moving the drums in different piles to
24 different locations based on what the chemists had said?

25 A. Yes, I think I did.

1 Q. Did anyone ever complain to you about the
2 quality of the scrap Pyranol that was from GE?

3 A. Complain to me?

4 MR. COWAN: Objection, no foundation.

5 THE COURT: No foundation for personal
6 knowledge.

7 A. I don't remember that they ever complained to
8 me personally.

9 Q. Did you ever hear Mr. Fletcher's commenting
10 about the quality of the scrap Pyranol from GE?

11 A. Yes.

12 Q. Please tell me about that.

13 A. Well, I remember him saying that -- there was
14 one load I went out and picked up and brought back.

15 MR. COWAN: Objection, calls for hearsay.

16 THE COURT: Overruled.

17 A. And I remember Mr. Fletcher saying about how
18 it was not a good load. There was not any drums I guess
19 on it that we could use.

20 Q. Was this during the time when Mr. Metevier was
21 the foreman?

22 A. Yes.

23 Q. Did Mr. Metevier know Fletcher's was getting
24 drums that he couldn't use?

25 A. Yes.

1 Q. How do you know this?

2 A. Well, I remember conversations with him.

3 Q. What did Mr. Metevier say?

4 A. Well, he said that he understood that we were
5 getting drums that were not Pyranol or were so thinned
6 out that it was not usable and --

7 Q. What happened? What did Mr. Metevier say that
8 he was going to do as a result of learning this
9 information?

10 A. Well, I'm not sure that he ever told me
11 personally what he was going to do.

12 Q. What did he do as a result of this?

13 A. Well, we got loads that we wasn't billed for I
14 believe.

15 Q. And how do you know that?

16 A. Well, I was told by Mr. Metevier one side, if
17 I got stopped going out through by GE people, to let --
18 to report it in Milford and let them know. And I was
19 told the same thing in Milford. If anybody stopped me
20 coming out, to let them know. No one ever did.

21 Q. Do you know how often you received free loads?

22 A. I don't know.

23 Q. Did anything change about the quality of the
24 scrap Pyranol itself after Mr. Metevier learned that
25 Fletcher's didn't want some of the thinned-out material?

1 A. I'm not sure anything changed too much about
2 the quality of it, but he had also -- Mr. Fletcher I'm
3 sure had complained about the drums not being full. A
4 lot of the drums was half full, maybe not even that, and
5 I know he complained to Mr. Metevier about that; that he
6 liked full drums.

7 Q. So you received full drums as a result, and
8 you received some free drums as a result, but the
9 material itself inside the drums, did that change in any
10 way?

11 A. No, I don't think so.

12 Q. What about the drum containing the material?
13 Did those change?

14 A. No. They always used secondhand drums.

15 Q. During the years that you went -- I'm changing
16 gears to ask you a new line of questions. During the
17 years that you went to Hudson Falls and Fort Edwards,
18 was Mr. Metevier the foreman of the scrap and salvage
19 department the entire time?

20 A. No.

21 Q. What happened? Who took over or did they
22 cease to have one?

23 A. Mr. Varnum took over the salvage business
24 department.

25 Q. After Mr. Varnum took over, did anything

1 change about the process of picking up scrap Pyranol?

2 A. Well, it changed in the fact that no matter
3 what was in the drums, you got billed for them.

4 THE COURT: I'm sorry?

5 THE WITNESS: No matter what was in the drums,
6 you got billed for them. Mr. Metevier was taking care
7 of it on the drums before.

8 THE COURT: When you say taking care of them,
9 you mean making adjustments to the billing for it?

10 THE WITNESS: Yes.

11 Q. Mr. Varnum didn't do that.

12 A. No.

13 Q. Because Mr. Varnum wouldn't make adjustments
14 to the billing, did anything change from how you handled
15 the scrap Pyranol in terms of picking it up?

16 A. Yes.

17 Q. What changed?

18 A. Well, we had to take a beaker and a floating
19 device with us and check the Pyranol. We had a thing --
20 a little siphon that you stuck down in the drum, pulled
21 out a handle and pull out some of the material. Real
22 true Pyranol, it wouldn't pull it out. It was too
23 heavy. And some of it that was thinned out a little
24 bit, it wouldn't pull out as I recall.

25 Q. Was that a measure of the specific gravity or

1 density?

2 A. Yes.

3 Q. Was that a hydrometer that you were using?

4 A. I think that's what they called it.

5 THE COURT: Can I ask you about the former
6 regime at GE where the guy would make adjustments, take
7 care of Mr. Fletcher. To your knowledge were any
8 barrels ever returned to GE where it was like brought
9 back and given to them?

10 THE WITNESS: No. The only barrels I remember
11 taking to GE was during the steel strike. Mr. Fletcher
12 sent out some used barrels for him to use.

13 THE COURT: Those were empty barrels?

14 THE WITNESS: Yes.

15 THE COURT: I see.

16 Q. BY MS. FISKE: Was the hydrometer -- did that
17 belong to Mr. Fletcher?

18 A. Yes.

19 Q. Did you ever see anyone from GE testing a drum
20 with a hydrometer?

21 A. No.

22 Q. So you did the testing yourself with the
23 hydrometer?

24 A. Yes. I only did the drums that were thin
25 enough though.

1 Q. And what happened to a drum that was not pure
2 Pyranol?

3 A. Well, if it was mixed with the Tri-Clean D,
4 the cleaner, we kept it as long as a float floated at a
5 certain number. If it was below that number, we left
6 that drum there, or at least I did.

7 Q. Did Mr. Varnum see you using the hydrometer?

8 A. Oh, I'm sure he did.

9 Q. Did you talk to him about why you were using
10 it?

11 A. I think Mr. Fletcher made the deal ahead of
12 time that we are going to do it.

13 Q. Did Mr. Varnum see you rejecting the drums?

14 A. Well, he must have known that I did. I'm not
15 sure if he saw it or not.

16 Q. Why do you say that he must have known?

17 A. I don't remember. I must have marked them
18 somehow. I don't recall. I do remember rejecting
19 drums.

20 Q. Did other GE employees see you rejecting
21 drums?

22 A. Well, the men who loaded the trucks, they run
23 the forklifts there, would have.

24 Q. Did you talk to any of them about why you were
25 leaving some of the drums behind?

1 A. I don't recall that I did, but I would guess I
2 might have.

3 Q. But you think people saw you using the
4 hydrometer?

5 A. People out there did, yes.

6 Q. I want to ask you about the time period of
7 your last trips to Hudson Falls and Fort Edwards. You
8 testified earlier that Mr. Varnum replaced Mr. Metevier;
9 correct?

10 A. Um-hum.

11 Q. While you were going to Hudson Falls, did
12 anyone ever replace Mr. Varnum?

13 A. Not that I recall.

14 Q. Do you recognize the name Mickey Rosetti?

15 A. No, I don't.

16 Q. All the times that you went to Hudson Falls,
17 was anyone in the scrap and salvage department besides
18 Mr. Metevier and Mr. Varnum?

19 A. As far as managers of the area, those are the
20 only two I remember.

21 Q. And could anybody sign the paperwork that you
22 needed to remove the drums?

23 A. Could anyone sign?

24 Q. The paperwork, the bill of lading that you
25 talked about. I think you said earlier that it was only

1 Mr. Metevier or Mr. Varnum that signed the paperwork for
2 you?

3 A. They are the only ones, that I recall anyway,
4 that made out the paperwork.

5 Q. If someone else had replaced Mr. Varnum and
6 signed the paperwork, would you remember that?

7 A. I would think so, but I'm not sure.

8 THE COURT: Do we have a stipulation as to
9 when Varnum replaced Metevier?

10 MS. FISKE: We do, your Honor. 1966. Oh, I
11 think the stipulation is when Varnum retired is 1966.

12 THE COURT: When did Varnum replace Metevier?

13 MS. FISKE: We don't have a stipulation and I
14 would say the evidence isn't totally clear. I'd say
15 sometime in the early sixties.

16 MR. BIAGETTI: The government's de minimis
17 report which is an exhibit says that Metevier leaves GE
18 in 1964.

19 THE COURT: And Varnum retires in 1966 you
20 say?

21 MS. FISKE: Yes. That is -- we do have a
22 stipulation on that.

23 Q. By the way, the de minimis report was
24 something that was prepared by EPA as part of a
25 settlement with Aerovox and Sprague in 2000, and there

1 is other evidence in the record that perhaps Mr.
2 Varnum -- for example, Mr. Abbe testifies that when he
3 first started as manager of material, Mr. Varnum was in
4 charge of the scrap and salvage department, and that was
5 I think in the early sixties. So it's somewhere in that
6 time frame, but it might not be '64.

7 THE COURT: All right.

8 Q. Mr. Hooper, do you know if anyone from
9 Fletcher's drove to GE to pick up scrap Pyranol after
10 you stopped going there?

11 A. I don't remember for sure.

12 Q. Do you know if there's anybody else who might
13 know?

14 A. Well, Dick Whitney might know if he unloaded
15 trucks or John Racicot. I don't recall anyone going
16 after I did. Possibly the paper mill truck may have.

17 Q. Are you familiar with a term "contract truck,"
18 Mr. Hooper? Contract truck?

19 A. That's a truck owned by a private individual.

20 Q. Did Fletcher's ever use contract trucks in
21 general to deliver material to Fletcher's?

22 A. Not that I recall, very much anyways.

23 Q. Did he sometimes occasionally use contract
24 trucks just in general to deliver material to
25 Fletcher's?

1 A. No. Ross Express, I don't know if you call
2 them a contract truck or not. Ross Express.

3 Q. What's Ross Express? Is that an independent
4 truck company?

5 A. Well, it's a truck company that had a terminal
6 here above Concord. I know he used them some.

7 Q. So sometimes Ross Express delivered material
8 to Fletcher's?

9 A. Yes, and he had them deliver some stuff, too.

10 Q. And any other contract trucks or independent
11 trucks that you can think of besides Ross Express that
12 might have sometimes delivered materials to Fletcher's?

13 A. Well, there was a lot of trucks that delivered
14 material, like H.P. Welch and all those, privately-owned
15 trucks.

16 Q. Did Fletcher's ever hire contract trucks to
17 deliver material for him?

18 A. I'm not sure.

19 Q. Ross Express was -- did Ross Express ever
20 deliver material to Fletcher's?

21 A. Yes.

22 Q. What kind of material was that?

23 A. Oh, anything that he had them pick up. I
24 almost think they picked up Pyranol once or twice, but
25 I'm not a hundred percent sure of it either.

1 Q. That was the next question I was going to ask
2 you, is whether Fletcher's ever hired a contract truck
3 to deliver scrap Pyranol to Fletcher's. Do you know if
4 he ever did?

5 A. Not for sure.

6 Q. But he might have?

7 A. He may have.

8 Q. Have you ever heard the name Ted Madsen
9 before?

10 A. Yes.

11 Q. Who's Ted Madsen?

12 A. Ted Madsen had a business in Milford. He
13 dealt in pallets a lot, wooden pallets I know. Mr.
14 Fletcher did buy pallets from him when he first got a
15 forklift. I remember that.

16 Q. Did he ever drive trucks for Mr. Fletcher?

17 A. I don't think he ever drove a truck for Mr.
18 Fletcher, that I recall.

19 Q. Did he have his own trucks?

20 A. He had his own trucks.

21 Q. Do you know if Mr. Fletcher ever hired him to
22 drive Mr. Madsen's truck?

23 A. What's that?

24 Q. Did Fletcher's ever hire Ted Madsen to drive
25 his own trucks, with Mr. Madsen's trucks?

1 A. To GE?

2 Q. Anywhere.

3 A. Not that I recall.

4 Q. How about to pick up material?

5 A. Not that I recall.

6 Q. How did you know he had his own truck?

7 A. Madsen?

8 Q. Yeah.

9 A. Oh, I remember the business. It was at the
10 corner of Oak and Lincoln Streets in Milford, and he had
11 a pallet business there and I know he used to deliver
12 pallets on the trucks.

13 Q. I'd like to move on to a new line of
14 questions.

15 A. I think he also dealt in lumber. Of course
16 pallets are made out of lumber, too.

17 Q. So we have been jumping back and forth a
18 little bit. I wanted to talk mostly about what was
19 happening at GE, and now I want to turn back and focus
20 on what was happening at Fletcher's property. Starting
21 with the trucks themselves, what would happen when the
22 trucks returned to Milford?

23 A. It would be unloaded.

24 Q. And the truck itself, what would it look like
25 inside after it had been unloaded?

1 A. Well, it depended on how messy the drums were.
2 Sometimes not much of anything happened. Sometimes they
3 need cleaning out.

4 Q. When it needed cleaning out, what did that
5 process entail?

6 A. They would either be cleaned out in the back
7 room, backyard at Milford or taken up to -- there was a
8 place on Elm Street -- well, up the street from us quite
9 a ways, but you could drive a truck right into it and
10 wash it out with pressure and good steam and really
11 clean it.

12 Q. Just focusing on Mill Street, you said take it
13 to the backyard. Was the backyard an asphalt backyard
14 at that time?

15 A. What's that?

16 Q. Focusing on Elm Street, where the truck
17 returned to Elm Street, you said the truck was cleaned
18 out in the backyard. Was that an asphalt backyard?

19 A. Asphalt?

20 Q. Yes.

21 A. No.

22 Q. It was dirt back there?

23 A. Dirt.

24 Q. And how would the material be cleaned out of
25 the truck?

1 A. Washed out.

2 Q. And what would happen to the wash water?

3 A. Go on the ground. They would place the truck
4 so it was headed downhill and then the water ran out the
5 corners of the bodies on most of them.

6 Q. You talked about testing the drums. I think
7 there was another step involving painting over markings
8 of the drums?

9 A. Yes.

10 Q. Please tell us about that.

11 A. Well, when the drums reached Milford, the
12 signs on the side where they painted on scrap 1499 or
13 whatever would be painted out with black paint, and
14 the -- any other information on the drum, a lot of them
15 had information on what was originally in the drum, and
16 General Electric, Hudson Falls, and prices where the
17 original stuff had come from, we were supposed to paint
18 it out.

19 Q. Why was that?

20 A. So nobody knew where it came from.

21 Q. You said the drums were sorted and they were
22 stored outside. Can you describe -- I think you said
23 they were stacked on their side?

24 A. Originally they were laid on their side
25 because we didn't have a forklift. We just had a

1 tractor with a boom on it. It would pick up one drum at
2 a time and lay it down. Afterwards he bought a forklift
3 and we started to palletize things in the end.

4 Q. You mentioned that Webster received some of
5 the scrap Pyranol?

6 A. They received a lot of it.

7 Q. Did anybody else besides Webster receive scrap
8 Pyranol from Fletcher's?

9 A. Yes.

10 Q. Who else besides Fletcher?

11 A. Oh, I don't remember. Those original samples
12 that he sent out, he got quite a few replies on those,
13 and he sent out most of the Pyranol before he started to
14 try to find more.

15 Q. Does anyone have any personal, firsthand
16 knowledge of what any third party did with any of the
17 scrap Pyranol it received from Fletcher's?

18 MR. COWAN: Objection.

19 THE COURT: Wait. Rephrase that question,
20 please.

21 Q. Do you have any firsthand knowledge of what
22 any third party did with scrap Pyranol that it received
23 from Fletcher's?

24 A. I remember there was one company that -- I
25 think it was in New Jersey, that bought several lots of

1 it, and I believe they bought 20 drums at a time. The
2 reason I say that was we had a lift that held 20 drums
3 and we used to put 20 drums on and pick it up and then
4 they would load it onto a truck from there, and it just
5 held 20 drums. As I recall, we gave one pallet or lift
6 load at a time to these people. They claimed it was an
7 insecticide company as I recall.

8 Q. But you don't know if that's what they were
9 really doing with it?

10 A. I don't really know. All I know is I remember
11 them saying it's an insecticide company that was buying
12 it.

13 Q. So you never saw anybody outside of Fletcher's
14 what they actually did with these materials?

15 A. Outside of Fletcher's?

16 Q. Yeah.

17 A. You mean another company?

18 Q. Right.

19 A. No.

20 Q. When Webster started picking up -- well, let
21 me rephrase that question. How did Webster Company
22 first get scrap Pyranol from Fletcher's?

23 A. How did they get it?

24 Q. Yes.

25 A. With their own trucks.

1 Q. Did they come in their own trucks?

2 A. Yes.

3 Q. How often would their trucks arrive for
4 pickup?

5 A. I don't remember. I know that a straight
6 truck used to come quite often, and sometimes they would
7 order extra and a trailer truck, a small trailer truck
8 would come.

9 Q. How big is a straight truck?

10 A. They come in all sizes.

11 Q. How big was this straight truck?

12 A. I forget now how many drums it would hold.

13 Q. But then sometimes they came in a trailer
14 truck which was bigger?

15 A. Yes.

16 Q. For how many years would they come to get
17 material from Fletcher's?

18 A. I don't know, but it was several years. Must
19 have been four or five, maybe more. I'm not sure.

20 THE COURT: Do we have an agreement as to the
21 total number of drums that went to the site?

22 MS. FISKE: Not a stipulated agreement.

23 THE COURT: Are there GE records that show how
24 many drums went to the site?

25 MS. FISKE: I'm sorry, we do. 200,000

1 gallons.

2 THE COURT: 200,000 gallons. Divide that into
3 drums. Divide that into drums. Assume that not all of
4 them are full. Okay.

5 Q. Did Webster take any quality scrap Pyranol?

6 A. Of the good Pyranol?

7 Q. Would Webster take anything from Fletcher's,
8 any quality scrap Pyranol?

9 A. No.

10 Q. How do you know this?

11 A. I remember they brought some back.

12 Q. Why did they bring it back?

13 A. Well, it was too thinned out I think they
14 claimed.

15 Q. What did Fletcher's do after Webster rejected
16 some of it?

17 A. They started dumping it and recycling it and
18 adding some heavy to it and filtering it and bringing
19 the viscosity of it up. So they would take the thin
20 Pyranol, but they didn't want the real, real thin stuff.

21 Q. When did Webster stop picking up scrap
22 Pyranol?

23 A. I don't know the year.

24 Q. After Webster stopped picking up scrap
25 Pyranol, did Fletcher continue to obtain scrap Pyranol

1 from GE?

2 A. Yes, I believe they did.

3 Q. How much?

4 A. I don't know.

5 Q. What do you remember about the time period
6 when Webster stopped picking up scrap Pyranol but
7 Fletcher was continuing to obtain it?

8 A. Well, I remember that they said that Webster
9 Cement had been sold to another company, and that
10 company did pick up a few loads after that, but they
11 stopped. I think the government was beginning to find
12 out Pyranol wasn't good for you and the company changed
13 their formulations I believe.

14 Q. The Webster Company or the new company?

15 A. Yes.

16 THE COURT: Can I go back in time now again?
17 We had talked about the initial shipment of Pyranol
18 drums and where they were stored on the site and how
19 they were stored. You may have covered this, and if so,
20 I apologize, but after that initial shipment did the
21 place where the Pyranol was stored on site change?

22 THE WITNESS: Yes.

23 THE COURT: Are you going to go into that?

24 MS. FISKE: I was going to go into it, but now
25 is a good time.

1 THE COURT: Yeah. I'm wondering where --
2 after the first place, after the shipments in the early
3 fifties, the place changed. Where did it change to?

4 MS. FISKE: Let's look at Exhibit 30 again.
5 Now let's start talking about the time period, Mr.
6 Hooper, after Fletcher's lost Webster as a customer.

7 THE COURT: Can I get a time frame on that?
8 I'm confused.

9 MS. FISKE: It's not completely clear. Essex
10 Chemical, the contract was signed I believe it's
11 January 1st, 1967. December 31st, 1967. So the very
12 end of '67 or '68.

13 THE COURT: Is when they stopped?

14 MS. FISKE: I don't know if that's when they
15 stopped.

16 THE COURT: Let me do it this way then. We
17 talked about the early fifties, and you showed me where
18 it was stored. When did the place where it was stored
19 change after that?

20 THE WITNESS: Well, the area changed quite a
21 bit. It went from the road down gradually to the river.
22 When Mr. -- when they built the new supermarket in
23 Milford up on Mont Vernon Street -- it's a Rite-Aid now
24 and the old funeral home was there and it was torn down,
25 Mr. Fletcher got fill from there, and there was a lot of

1 it, and a lot of granite, and that was all brought over
2 and the area was filled in. So where the original drums
3 of Pyranol were stacked down towards the river, way down
4 underground now, and then he started piling stuff on the
5 new ground.

6 THE COURT: In the same area, but on the
7 higher filled-in area.

8 THE WITNESS: Yeah.

9 THE COURT: Okay. Let's go back to that first
10 shipment -- the first storage place for Pyranol. We I
11 think established that you thought there were more than
12 a hundred drums there at one time.

13 THE WITNESS: Oh, I think there was quite a
14 bit more.

15 THE COURT: Quite a bit more than a hundred.
16 And did all of those drums get sold or used up?

17 THE WITNESS: Most of the original drums they
18 sold.

19 THE COURT: And when he filled in that area,
20 he started storing drums on top of the filled in area;
21 right?

22 THE WITNESS: Yes.

23 THE COURT: And say -- let's take the time
24 period in the late fifties. Would there be a stockpile
25 of drums there at all times, so there always would be

1 drums there?

2 THE WITNESS: Yes.

3 THE COURT: And how big a size would this
4 group of drums be? How many drums would be there at a
5 particular time?

6 THE WITNESS: Well, there were drums there
7 other than from GE. There would be drums there for
8 paint thinners, paint resins, and all that type of
9 thing, too.

10 THE COURT: So it wasn't just Pyranol that
11 would be stored there. It would be all the chemicals
12 that he was buying?

13 THE WITNESS: Yeah, all the chemicals and
14 linseed oil, anything we used in the paint factory that
15 he got in drums.

16 THE COURT: Were they organized so that all
17 the Pyranol was in one place and all another kind of
18 chemical was in another?

19 THE WITNESS: They were supposed to be.

20 THE COURT: I'm interested in the Pyranol, and
21 I'm wondering, was there always a stockpile of Pyranol
22 there?

23 THE WITNESS: There was quite a pile there in
24 the beginning, and then he used most of that and sold
25 it, and then he begun buying it again from GE and a

1 couple other places and so it begun to pile up again.

2 THE COURT: And say at its largest, how many
3 barrels of Pyranol would there be there?

4 A. Oh, there would be a big pile. Some of them
5 may not be Pyranol though because -- some of these, from
6 GE especially, possibly didn't have any Pyranol in them.
7 If they did, it was such a small amount that they
8 couldn't use them.

9 THE COURT: All right. And I'm just trying to
10 get a visual impression. Are we talking five or
11 ten drums or a hundred drums or hundreds of drums?

12 THE WITNESS: Probably the whole yard, two or
13 300 yards maybe.

14 THE COURT: Of all the chemicals or just the
15 Pyranol?

16 THE WITNESS: Just the Pyranol. He had a lot
17 of it. I may be a little off on that figure, but --

18 THE COURT: Okay. I just did a quick
19 calculation. If all of them were -- based on your
20 stipulation, you have over 3,000 drums of Pyranol during
21 the lifetime of the operation that were taken from GE,
22 the parties agree. Is that ballparking about right?

23 MR. BIAGETTI: 200,000.

24 THE COURT: 200,000 gallons divided into 55.

25 MR. BIAGETTI: 3,800, something like that.

1 MS. FISKE: Half of that in the last two
2 years.

3 MR. BIAGETTI: If they were all GE drums.

4 THE COURT: I thought the stipulation is
5 200,000 in Pyranol from GE.

6 MS. FISKE: Yes.

7 MR. BIAGETTI: Yes.

8 THE COURT: So I was talking over the lifetime
9 the parties agree that it would be at least 3,500 drums
10 and maybe more if they weren't all filled, and that's
11 over a period from the early fifties until -- when was
12 the last time the parties agree that Pyranol was taken
13 to the site?

14 MS. FISKE: November of 1967.

15 MR. COWAN: We don't agree with that, Judge.

16 MR. BIAGETTI: We don't agree to that, Judge.

17 THE COURT: What do you say?

18 MR. COWAN: Judge, we think the record will
19 show, actually through this witness, that the last trips
20 to GE for Fletcher's purposes may have continued into
21 the early seventies by this very witness.

22 THE COURT: So between the mid to late
23 sixties, early seventies from the early 1950s. So over
24 3,000 drums of Pyranol from GE. I'm trying to get a
25 mental image of what this is like and that's why I'm

1 asking this.

2 MS. FISKE: And it is a topic I'm going to
3 cover as well, and I'm going to show you some
4 photographs as well.

5 THE COURT: Okay.

6 MS. FISKE: If it's all right with you, I will
7 come back to that topic.

8 THE COURT: Yeah. For me, a story that
9 evolves, it's useful to tell the story as it evolves
10 rather than to go up on one topic and go up on another.
11 But you are entitled to do whatever method you want. My
12 curiosity gets piqued and I try to fill in. We start in
13 the fifties and then we're up in the late sixties, and
14 I'm just trying to figure out what happened in between.

15 Q. BY MS. FISKE: Did anyone from GE ever visit
16 the site?

17 A. Yes.

18 Q. Who was that?

19 A. Mr. Metevier.

20 Q. And why was he visiting the site?

21 A. Well, I don't know, but he came. Mr. Fletcher
22 gave him a tour of the paint factory, and I remember
23 talking to Mr. Metevier afterwards about his trip there.

24 Q. Do you know when this visit was?

25 A. Not really. I remember him doing it, but I

1 can't tell you what year it was.

2 Q. Do you know if it was towards the beginning of
3 your relationship with Mr. -- do you know if it's
4 towards the beginning of the time period when you were
5 driving to Hudson Falls or towards the end?

6 A. I think I made several trips out before he
7 came.

8 Q. Did he continue to be the foreman of the scrap
9 and salvage yard for a while after the visit?

10 A. Yes.

11 Q. What did he see while he was at the site?

12 A. Well, I remember Mr. Fletcher gave him a tour
13 of the paint factory I know and showed him our
14 operation, and I remember talking with Mr. Metevier and
15 he was telling me that he stayed in a motel south of
16 Nashua and he was comparing -- he visited Manchester
17 because he was comparing that to a city in New York. I
18 think it was Mechanic Falls.

19 Q. And what about while he was at Elm Street?
20 What did he see at Elm Street?

21 A. I know he saw the paint factory because I was
22 there when he went through it.

23 Q. Who did he go through it with?

24 A. Mr. Fletcher.

25 Q. And you saw him with Mr. Fletcher?

1 A. Yes.

2 Q. Do you know if he saw any of the scrap Pyranol
3 drums stored outside on his visit?

4 A. I don't know.

5 Q. Where were the drums stored at the time of his
6 visit?

7 A. Well, they would have been out by the end of
8 the building.

9 Q. Can we zoom in on the Elm Street site? Can
10 you show me at the time of Metevier's visits where the
11 drums would have been stored?

12 A. I'm not a hundred percent sure, but I would
13 think right through there somewhere. Of course they
14 wouldn't be clear to the river.

15 Q. Could you see those drums from Elm Street?

16 A. Yes.

17 Q. And is that a road that goes along the west
18 side of the property?

19 A. Yes.

20 Q. Could you see the drums from that road?

21 A. Yes.

22 Q. How did Mr. Metevier get to the property?

23 A. I believe he drove his car over.

24 Q. Was there any way for him not to have seen
25 those drums?

1 MR. COWAN: Objection.

2 A. I don't know of any reason why he wouldn't
3 have.

4 THE COURT: You can ask more specific
5 questions that make clear where his car was and where
6 the drums were and whether there was anything in between
7 his car and the drums. You can ask it that way if you
8 want.

9 Q. Do you know where he would have parked his car
10 at the time of his visit?

11 A. No, I don't.

12 Q. Where -- was there street parking?

13 A. There was street parking, and some people
14 drove into the yard to park. I'm not sure where he
15 would have parked that day.

16 THE COURT: Where in relation to where the
17 drums were stored was the paint factory that he toured?

18 THE WITNESS: The paint factory at the time
19 that he was there would have been in this area. He --
20 of course Mr. Fletcher built a new paint factory out
21 here later.

22 THE COURT: The paint factory that he toured,
23 how far from the drum storage area was it?

24 THE WITNESS: Well, the store would have been
25 in between.

1 THE COURT: So there's a building in between
2 the paint factory and the drum storage?

3 THE WITNESS: Actually, it was all the same
4 building.

5 THE COURT: Part of the same building, okay.
6 So one part of the building was the paint factory and
7 the other part was the store?

8 THE WITNESS: Yes.

9 THE COURT: Okay. And if you were inside the
10 paint factory, were there windows in the paint factory?

11 THE WITNESS: Yes, but they were so high you
12 couldn't see out of them because there was the cemetery
13 in back.

14 THE COURT: Where was the door to the paint
15 factory?

16 THE WITNESS: Right onto Elm Street.

17 THE COURT: So when one would go in -- say,
18 for example, were you there when this gentleman toured
19 the paint factory?

20 THE WITNESS: Yes.

21 THE COURT: Did he come in off of Elm Street?

22 THE WITNESS: I would have thought they would
23 have probably come from Mr. Fletcher's office.

24 THE COURT: Where was Mr. Fletcher's office?

25 THE WITNESS: That was between the factory and

1 the store.

2 THE COURT: Again, in the same building --

3 THE WITNESS: Yes.

4 THE COURT: -- but between the factory and the
5 store.

6 THE WITNESS: Yes.

7 THE COURT: And when you were going into Mr.
8 Fletcher's office from outside, how would you do that?

9 THE WITNESS: Well, you could go in through
10 the store, and they had the main office in the front of
11 the building and Mr. Fletcher's office was in the back.

12 THE COURT: The store -- where was the door to
13 the store?

14 THE WITNESS: Well, back in those days it was
15 about the center of the store I would say.

16 THE COURT: Is that green space up by Elm
17 Street, is that the building that is both the factory
18 and the store?

19 THE WITNESS: Here?

20 THE COURT: Yeah. You've marked an area up by
21 the street.

22 THE WITNESS: I just marked the area that I
23 thought would be the paint factory.

24 THE COURT: Why don't you draw in where you
25 think the store was.

1 THE WITNESS: The store would be here.

2 THE COURT: I see. Okay.

3 THE WITNESS: Back then anyway where I went
4 down in the street there, and the offices would have
5 been in between.

6 THE COURT: Okay. Now, if you were trying to
7 pace off the distance, could you walk between the store
8 and the barrel storage area? Could a person do that?

9 THE WITNESS: Yes.

10 THE COURT: Was there anything obstructing
11 your ability to walk from the store to the barrel
12 storage area?

13 THE WITNESS: No, you just have to go through
14 the door, the back door.

15 THE COURT: Was the area there all open so
16 that if you were standing at the door to the store, you
17 could see the barrel storage area?

18 THE WITNESS: Not if you stood at the store
19 door.

20 THE COURT: And why couldn't you?

21 THE WITNESS: Because the store came out and
22 you couldn't see around the corner.

23 THE COURT: To save time, the lawyer wants to
24 know whether Mr. Metevier, if he went on this tour and
25 went into Mr. Fletcher's office, would have been in a

1 position that he would have been able to see the barrel
2 storage area from any of those spots he was in.

3 THE WITNESS: No.

4 THE COURT: No. And what would keep him from
5 seeing it?

6 THE WITNESS: Walls.

7 THE COURT: So he would have had to walk out
8 behind the store in order to see the barrel storage
9 area.

10 THE WITNESS: Or beside the store.

11 THE COURT: Did you ever see him behind the
12 store or beside the store?

13 THE WITNESS: The only place I remember seeing
14 him was when he came out into the office, but I know he
15 was in the store because he told me he was, but --

16 THE COURT: Okay. But you didn't see him
17 outside the store or beside the store or in a position
18 where he would have been able to see the barrel storage
19 area.

20 THE WITNESS: I didn't see him in such a
21 position.

22 THE COURT: Okay.

23 MS. FISKE: I apologize for this.

24 THE COURT: I thought you had some knowledge
25 for this because generally you don't ask questions you

1 don't even know the answer to, but I'm just trying to
2 get to it, you know.

3 MS. FISKE: Thank you.

4 Q. BY MS. FISKE: Elm Street, anywhere along Elm
5 Street except for when you are directly in front of the
6 building, can you see the drums stored behind the
7 buildings?

8 A. You couldn't see them when you were directly
9 in front of it. You had to be to one side.

10 Q. But if you were to one side you could see the
11 drums?

12 A. Yes.

13 Q. If you went along the access road to the west
14 you could see the drums?

15 A. Access road, that went down Keyes Field?

16 Q. Yes.

17 A. Yes, you could see them.

18 Q. And about how many drums were stored on the
19 site at the time of Mr. Metevier's visit?

20 A. Oh, I have no idea now. There would have been
21 resin drums, thinner drums, as well as Pyranol drums
22 there.

23 Q. And what about how many Pyranol drums?

24 A. At that time?

25 Q. Yeah.

1 A. I don't know.

2 Q. Can you picture how many of them there might
3 have been?

4 MR. COWAN: Objection, asked and answered.

5 A. I'm not sure just when he came --

6 THE COURT: I think we have gotten there.
7 There are hundreds of drums there I think it's fair to
8 say.

9 MS. FISKE: Okay.

10 THE COURT: Why don't we take our break, give
11 the court reporter a break, 15-minute break.

12 (Recess taken.)

13 THE COURT: All right, counsel. Let's try to
14 move it along.

15 MS. FISKE: Yes, your Honor. Good idea.

16 Q. Mr. Hooper, after Fletcher's lost Webster as a
17 company, about how many drums of scrap Pyranol were on
18 the site?

19 A. I don't remember.

20 Q. How about just focusing on Elm Street. Do you
21 remember how many drums were stored on Elm Street?

22 A. Offhand, I don't remember the exact amount. I
23 know there were a lot of them.

24 Q. And so there were a lot of drums. Were these
25 drums of scrap Pyranol?

1 A. Some of them would have been.

2 Q. And about how many drums of scrap Pyranol were
3 stored on Elm Street?

4 A. When Webtex stopped coming?

5 Q. Yes.

6 A. I don't know.

7 Q. How about on Mill Street? Were any drums of
8 scrap Pyranol stored on Mill Street?

9 A. There were some stored there, but I'm not sure
10 if they were there when Webtex stopped coming or not.

11 Q. I'd like to show you a photograph. Can you
12 look at Exhibit 50?

13 MS. FISKE: Can we go to 453 and zoom in on
14 the top photo.

15 Q. Do you recognize this photograph?

16 A. Yes.

17 Q. What do you recognize it to be?

18 A. That is taken from the cemetery. That is one
19 of the granite things around the lot there. Looking
20 over the yard at the back of Fletcher's factory onto the
21 right you can see the Souhegan River.

22 Q. So that's taken from the Elm Street location;
23 is that right?

24 A. Yes.

25 Q. How high are the drums stacked in that

1 photograph?

2 A. Well, some as much as three I think, few
3 places.

4 Q. Were the drums stacked like that during the
5 seventies at Mill Street? I'm sorry, this is Elm
6 Street. Were the drums stacked like that at Elm Street
7 during the seventies?

8 A. Yes.

9 Q. Were the drums stacked like that at Elm Street
10 during the sixties?

11 A. During the fifties?

12 Q. Sixties.

13 A. Sixties. The early sixties they may have been
14 laying down.

15 Q. And why do you make that distinction?

16 A. Other than the empty drums would probably have
17 been standing up.

18 Q. And why during the early sixties might the
19 drums have been laying down?

20 A. I'm not sure when he bought the forklift,
21 first forklift we had. Before that most of them were
22 laying down.

23 Q. And why is that?

24 A. Well, because we had no forklift to stand them
25 up. We couldn't use pallets because we didn't have a

1 forklift to do it.

2 Q. If the drums are lying on their side, how high
3 can you stack them?

4 A. All depends. The empty drums used to go up
5 higher than the full drums, as I recall. Oh, probably
6 three or four high.

7 Q. Did drums of scrap Pyranol ever get stacked
8 three or four times?

9 A. Scrap Pyranol?

10 Q. Yes.

11 A. Full ones?

12 Q. Yes.

13 A. They could have. I'm not sure, but they could
14 have.

15 Q. And would that have happened during the
16 sixties?

17 A. Well, fifties and probably early sixties.

18 Q. And during the seventies once you had them
19 palletized, how tall would they get stacked?

20 A. Well, they couldn't have been over three high
21 I don't think.

22 Q. So no taller than what you are seeing in this
23 photograph then?

24 A. No.

25 Q. Let's turn to the next photograph at the

1 bottom of this page.

2 THE COURT: Do we have any diagrams of what
3 the structures were on the site at various periods of
4 time?

5 MS. FISKE: We don't, but I could work on
6 trying to get you something like that.

7 THE COURT: None of the reports that you guys
8 have show that? Usually there's something.

9 MR. BIAGETTI: Your Honor, we could not find
10 one.

11 MS. FISKE: We can try to get you something
12 later.

13 THE COURT: How good are you at drawing
14 diagrams?

15 THE WITNESS: I'm no artist.

16 THE COURT: I don't expect that. Let me just
17 first ask you. From the fifties up until the seventies
18 you talked about some fill being added.

19 THE WITNESS: Yes.

20 THE COURT: What I'm interested in are the
21 structures at the site. Have they changed between the
22 fifties and the seventies?

23 THE WITNESS: Yes.

24 THE COURT: What happened?

25 THE WITNESS: Well --

1 THE COURT: Let me ask counsel. You just put
2 up a diagram. What is that?

3 MS. FISKE: This is a diagram of -- in the
4 right, upper right-hand corner is a rectangle
5 representing the structure that was on the site in the
6 eighties.

7 THE COURT: Okay.

8 MS. FISKE: That's no longer there.

9 THE COURT: It's like an L-shaped structure.

10 MS. FISKE: Yes.

11 THE COURT: And the river's behind that, and
12 the photograph you showed would have been that area
13 between the building and the river where the drums were?
14 The cemetery would be up on the top here looking down;
15 right?

16 MS. FISKE: Right. The photograph is area C.

17 THE COURT: The cemetery would have been up
18 here; right? And they would have been looking down at
19 these barrels because I saw the river down on the right
20 side. I saw the edge of the building there, okay? They
21 are telling me that the building -- you recognize where
22 the river is; right?

23 THE WITNESS: Yes.

24 THE COURT: And you know the street would be
25 in the front on the opposite side of the diagram from

1 the river; right?

2 THE WITNESS: Right here, yes.

3 THE COURT: Now, they tell me this is what the
4 building looked like -- the footprint of the building
5 looked like in the eighties. Do you remember it looking
6 something like this in the eighties?

7 THE WITNESS: What is this 54, 55, 59, 57, 56?
8 Are those areas where drums were stored?

9 THE COURT: I don't know what those are. What
10 I'm interested in right now is I'm trying to get the
11 structures down, okay? I'm trying to see the structure
12 and I'm wondering -- it seemed to me like you were
13 saying the store is up in here. The office is somewhere
14 in here.

15 THE WITNESS: Yes.

16 THE COURT: And this is the factory there?

17 THE WITNESS: The old factory was made part of
18 the store after he built the new one. After he built
19 the new factory in back of the building on the back
20 part, the old factory became part of the store.

21 THE COURT: Vinny, how do I make these lines
22 disappear?

23 Okay. What I'm trying to figure out is you
24 don't remember a building looking like this in the
25 eighties?

1 THE WITNESS: Yes, I do.

2 THE COURT: Okay.

3 THE WITNESS: There's just some questions that
4 I'm wondering about; that's all.

5 THE COURT: What are you wondering about?

6 THE WITNESS: 54, 55, 59, 57, and 56.

7 THE COURT: Those look like S4, S5.

8 MS. FISKE: Sample locations.

9 THE COURT: Those are sample locations. Those
10 are where the drums were. I'm really asking you not
11 about that now. I'm asking you about the building. I'm
12 just trying to figure out what the site looked like.

13 THE WITNESS: Yes, it was a good deal like
14 that.

15 THE COURT: So in the eighties, was there one
16 part of this L shape that was a factory and one part of
17 it was an office and one part of it was a store?

18 THE WITNESS: Well, this area right here was
19 the old paint factory.

20 THE COURT: I'm asking in the eighties and
21 then we'll work back, okay? This was 1987, what it
22 looked like, and in 1987 what was this building -- was
23 this building used for anything at that point?

24 THE WITNESS: Well, the front of the building
25 by the 1980s was all store, and the office we'll say was

1 in between, and Mr. Fletcher's office was back here, and
2 the regular office was here, and there was a hallway
3 that went between the two offices.

4 THE COURT: Okay. And what was this part back
5 here?

6 THE WITNESS: To me it isn't printed right,
7 but the paint factory would be back there. There was a
8 garage -- a door here, a big door, and the newer paint
9 factory, and this one here would be a loading platform.

10 THE COURT: Was some part of this an addition
11 from the original building that was there?

12 THE WITNESS: Yes.

13 THE COURT: What part was the addition?

14 THE WITNESS: This down here was an addition
15 that he put on.

16 THE COURT: Okay. And when did he put that
17 addition on?

18 THE WITNESS: I don't remember what year it
19 would have been.

20 THE COURT: Was it fifties? Sixties?
21 Seventies? Eighties?

22 THE WITNESS: I would say in the sixties. And
23 then he built a new paint factory in the back.

24 THE COURT: Did he demolish something to build
25 the new paint factory or did he just add on?

1 THE WITNESS: He added on what was there.
2 There was an old foundation out here that he built on.
3 The old foundation was for the armory that burned way
4 back in the 1920s.

5 THE COURT: And when did he build the paint
6 factory addition?

7 THE WITNESS: I'm not exactly sure of the
8 year. I'd say in the late seventies.

9 THE COURT: Is the addition that he built,
10 does it follow the footprint that we have here?

11 THE WITNESS: Somewhere in here.

12 THE COURT: And before he built that addition
13 where was the paint factory?

14 THE WITNESS: Paint factory was here.

15 THE COURT: Okay. All right.

16 THE WITNESS: Faced onto Elm Street.

17 THE COURT: So originally in the fifties there
18 was just a paint factory there? No store or office?

19 THE WITNESS: Well, when he bought the place
20 there was just a paint factory there.

21 THE COURT: Okay. And that was in that upper
22 corner there; right?

23 THE WITNESS: It was in that end, yes.

24 THE COURT: Okay. And he continued to operate
25 a paint factory there for a while, and at some point in

1 addition to that he built this area here which was for
2 offices and the store; right?

3 THE WITNESS: He built a store.

4 THE COURT: So he built a store there and he
5 continued to use the paint factory, and then at some
6 point in the seventies he built this larger addition out
7 back towards the river, and that was the factory.

8 THE WITNESS: Right.

9 THE COURT: So if I were to think about how
10 the buildings on the site evolved, one building in the
11 upper corner that was a paint factory in the fifties
12 when he bought the place, then some expansion along the
13 street, addition along the street that became a store.

14 THE WITNESS: Yeah.

15 THE COURT: And later some offices went in
16 there as well; right?

17 THE WITNESS: Well, the offices were there
18 anyway, but he made the store longer.

19 THE COURT: Okay. And were the offices and
20 store there before the paint factory was enlarged?

21 THE WITNESS: Yes.

22 THE COURT: So then the last major change was
23 he built the paint factory out into the back, and he
24 took what was the paint factory and turned that into
25 store.

1 THE WITNESS: Yes.

2 THE COURT: Were there any other structures on
3 the site at any other point?

4 THE WITNESS: Not that I recall.

5 THE COURT: And was there an area on the
6 property where employees parked?

7 THE WITNESS: Well, we used to drive in by the
8 end of the building here and park down along in here.

9 THE COURT: Okay. And you've told me in the
10 fifties, this area here was down closer to the river and
11 he later filled that area in with gravel; right?

12 THE WITNESS: Yeah, gravel and granite.

13 THE COURT: In the fifties what was this area
14 here?

15 THE WITNESS: Just part of the backyard.

16 THE COURT: Part of the backyard. Was it
17 cleared?

18 THE WITNESS: Well, it was gravel or whatever.

19 THE COURT: And did it stay that way until,
20 say, even after the factory was expanded in the
21 seventies?

22 THE WITNESS: Yes.

23 THE COURT: Okay. And all the drum storage
24 area that you've been talking about has been all in this
25 area; right?

1 THE WITNESS: No, it's further down, too.

2 THE COURT: Down towards the river?

3 THE WITNESS: Yes. Not that way down.

4 THE COURT: Oh, down that way, too. All
5 right. Good. That's helpful. Thank you. You can make
6 all those markings go away.

7 MS. FISKE: Would you like to put up No. 30
8 quickly, zoom in on the shaded portion of the property
9 so you can show the additional area where drums were
10 stored to mark that and where you talked about
11 additional drum storage area.

12 THE WITNESS: Well, he stored drums down
13 around here. There were two or three rows of them and a
14 road down in between them.

15 Q. There was a road in between that; is that what
16 you said?

17 A. Yes.

18 Q. And you've drawn two green lines. Does the
19 green line represent drums stacked on pallets or drums
20 on their sides?

21 A. Well, after he bought the forklift, most of
22 them are on the top on the end. The empty drums may
23 have been piled laying down, but the full ones mostly
24 standing up.

25 Q. So the two green lines -- was the green line

1 one pallet deep or two pallets deep?

2 A. Oh, I think at least two.

3 Q. Each green line was at least two pallets deep?

4 A. I believe so.

5 Q. And sometimes up to two pallets tall? Or how
6 tall was each green line?

7 A. Usually two pallets high I believe.

8 Q. And were those drums of scrap Pyranol?

9 A. Some of them could have been.

10 Q. Let's go back to Exhibit 50, the bottom
11 photograph on page 453. Do you recognize this
12 photograph?

13 A. Yes.

14 Q. What do you recognize it to be?

15 A. That was the back of the new paint building.
16 The walls cracked and they had to get them patched after
17 they had been up there a few years. That's why -- you
18 can see that looks like a staircase in the left corner
19 there where he patched the wall. That was in back of
20 the paint factory.

21 Q. Just focusing on the drums, how high are they
22 stacked in that photograph?

23 A. Some are three.

24 Q. Did the drums look like that in the 1970s?

25 MR. COWAN: Objection.

1 A. Well, probably similar.

2 THE COURT: Overruled.

3 Q. Probably similar, is that what you said?

4 A. Probably.

5 Q. Did the drums look like that in the 1960s?

6 A. 1950s?

7 Q. Sixties?

8 A. Well, before he bought a forklift they would
9 have been laying down.

10 THE COURT: We've gone over that. You are
11 remembering until the forklift, full barrels would be
12 stored on their side because you had to lift them up
13 that way. After the forklift, barrels were stored
14 vertically on pallets.

15 THE WITNESS: Yes.

16 THE COURT: And so whenever that period was,
17 and you think it's sometime maybe in the early sixties,
18 you got the forklift and thereafter that's how they
19 would be stored.

20 THE WITNESS: Yes.

21 THE COURT: Okay.

22 Q. And in either case -- well, in the case when
23 they are lying on their sides, they would be stacked
24 three high sometimes, or if they are on pallets, they
25 could be stacked three high?

1 MR. COWAN: Objection.

2 THE COURT: Overruled.

3 A. Some with a forklift would go that high.

4 Q. And we saw pictures of them three high;
5 correct?

6 A. There's some here.

7 Q. You said it looked like that in the seventies?

8 A. Similar.

9 THE COURT: We've covered it.

10 Q. Okay. Next page, can we look at the
11 photograph on the top of that page. Do you recognize
12 that photograph?

13 A. Well, I recognize it as being there, yes. I
14 see the numbers A147 and A146 on there.

15 Q. What does that mean?

16 A. I think that was done -- I think those were
17 put on when they checked the drums in the backyard. Mr.
18 Fletcher had Mr. McNulty supposedly go through all the
19 drums and check them out and take samples of them and
20 try to find out what they were, what the contents were.

21 Q. Is this what the drums looked like during the
22 seventies stacked on pallets like that?

23 A. I'm not sure. One reason I'm not sure is
24 these pallets look pretty dilapidated. Mr. Fletcher had
25 all the dilapidated pallets. When they checked the

1 drums, they were supposed to put good pallets under
2 them.

3 THE COURT: These were taken in '87; so this
4 would have been substantially after the seventies.

5 THE WITNESS: Yes, it would have been.

6 THE COURT: And I fully understand that. You
7 would see the barrels to the extent they had been out
8 there for a long time and the pallets would have the
9 effect of aging. I think what she's asking is a more
10 general question in the way the barrels were stacked and
11 palletized and in their approximate quantities and the
12 way that they were stored, is that the way it looked to
13 you in the seventies.

14 THE WITNESS: Yes.

15 THE COURT: And more specifically than that, I
16 think it would be a stretch to say I remember that they
17 were that color or that they had that discoloration or
18 the pallets looked broken up like that. It's for a much
19 more general proposition that you are showing me that
20 photograph.

21 THE WITNESS: Yes.

22 Q. BY MS. FISKE: Exactly. And the same general
23 question posed by the judge for 1960.

24 THE COURT: Let's say the period after they
25 got the forklift in the 1960s.

1 A. After they got the forklift they begun to use
2 pallets.

3 Q. Good. What about the bottom photograph on
4 this page, let's take a look at that. Do you recognize
5 this photograph?

6 A. Well, I recognize it looking like it looked
7 there.

8 THE COURT: Let me ask you some specific
9 questions. It appears that the pallets seem to be set
10 on the bare ground there. Is that the way they were set
11 when you -- after the time of the forklift until --
12 through the seventies?

13 THE WITNESS: Yes.

14 THE COURT: Okay.

15 Q. You had testified, Mr. Hooper, that after --
16 well, let me ask you this. After Fletcher's lost
17 Webster as a customer, what happened to all the drums of
18 scrap Pyranol on the site?

19 A. I don't really know what happened to all of
20 them.

21 Q. Did any of them get sold to anybody?

22 A. Well, I know Mr. Kamieniki had a lot of drums,
23 but I'm not sure whether they was all scrap Pyranol or
24 not, but I think many of them were.

25 Q. And what year was that when Mr. Kamieniki got

1 some of the drums of scrap Pyranol?

2 A. I'm not sure. I'd say maybe in the early
3 eighties. I'm not sure.

4 THE COURT: I apologize. You went over this,
5 but just to refresh my memory. How long was Fletcher
6 Paint actually in business manufacturing paint there?

7 THE WITNESS: From the late forties until they
8 closed in '88 I think it was.

9 THE COURT: '88. And were you working there
10 until '88?

11 THE WITNESS: No.

12 THE COURT: When did you stop working there?

13 THE WITNESS: I had a heart attack in May of
14 1987.

15 THE COURT: That's when you last worked there?

16 THE WITNESS: That's the last time I worked
17 there.

18 THE COURT: Was that the last time you were at
19 the site on a regular basis?

20 THE WITNESS: On a regular basis. After my
21 heart attack I just went back once to find out about my
22 insurance.

23 THE COURT: Immediately prior to your heart
24 attack, let me draw your attention back to that portion
25 of the site behind the factory where the barrels were.

1 Were there still barrels there when you -- immediately
2 prior to your heart attack?

3 THE WITNESS: I believe there were.

4 THE COURT: And can you give me a sense as to
5 the quantities? Were there, again, hundreds of barrels?

6 THE WITNESS: I would say there was -- well,
7 they had gotten rid of a lot of drums through Mr.
8 Kamieniki.

9 THE COURT: That was before your heart attack.

10 THE WITNESS: Yes. There was still quite a
11 few there.

12 THE COURT: And were there still drums right
13 before your heart attack down along the river and the
14 side of that access road?

15 THE WITNESS: Yes.

16 THE COURT: And did things look pretty much in
17 the eighties immediately before your heart attack the
18 way they had looked in the seventies there in terms of
19 the barrels, the number, and the way they were stored?

20 THE WITNESS: Yeah, there was a lot of them
21 there. I would say so.

22 THE COURT: And how would you compare in terms
23 of number and way in which barrels were stored the
24 sixties after you had the forklift, the seventies, and
25 the eighties until your heart attack? Did it look

1 pretty much the same in terms of the sizes and numbers
2 and where barrels were stored and how they were stored?

3 THE WITNESS: I would say yes.

4 THE COURT: Okay. Go ahead, counsel.

5 Q. BY MS. FISKE: Over the years while the drums
6 were stored outside, what happened to the drums?

7 A. What happened to the drums? They got weather
8 beaten.

9 Q. And did that have any effect on the contents
10 of the drums?

11 A. Well, it did if they rusted through, leaked or
12 whatever. If the paint was off them, they rusted
13 through, rusted through quicker I think.

14 Q. How many of the drums do you think started
15 leaking?

16 A. Oh, I have no idea.

17 Q. How about at Mill Street compared to Elm
18 Street?

19 A. Mill Street was kind of a bad place for
20 storing things because the street was high, and in back
21 of that there was a low spot before you come to the
22 railroad tracks, which were up on higher ground. So
23 there was a place in there where it was low, and when
24 they plowed the snow or something, the snow would go in
25 there and -- well, in the spring there would be a lot of

1 water there when it melted.

2 Q. And what impact did that have on the drums?

3 A. Well, especially if the paint was off them or
4 something, they would rust through.

5 THE COURT: I haven't heard much about Mill
6 Street. Do you have a map that shows the relation
7 between the two facilities?

8 MS. FISKE: Yes. Let's look at No. 30 again.
9 There's two shaded areas. Mill Street is the smaller
10 triangular-shaded area.

11 THE COURT: Were there any structures, sir, on
12 Mill Street?

13 THE WITNESS: Yes.

14 THE COURT: What structures were there?

15 THE WITNESS: Well, there was a building
16 there. It had -- I forget now -- three or four sliding
17 doors on the front of it. It was quite long, and there
18 was no floor in it other than a dirt floor and -- well,
19 kind of a garage building deal.

20 THE COURT: Was that building there the entire
21 time that you were associated with the company?

22 THE WITNESS: Yes.

23 THE COURT: And did it change in any way?
24 Were there additions made to it?

25 THE WITNESS: No, but there was another little

1 building there beside it and we used it for storage:
2 Pigments, resins, different pieces of equipment and
3 things.

4 THE COURT: What was the bigger building used
5 for?

6 THE WITNESS: Storage.

7 THE COURT: Same kind of thing?

8 THE WITNESS: Yeah.

9 THE COURT: Were there any other structures on
10 the site?

11 THE WITNESS: One little one.

12 THE COURT: What was that used for?

13 THE WITNESS: Well, we used that for storage,
14 too.

15 THE COURT: So the entire site, the only
16 structures on it were the three structures used for
17 storage.

18 THE WITNESS: Well, there was originally a --
19 right up here at the end here there was a fair size
20 building, and it burned one night, and as I recall,
21 everybody wondered, well, what set that on fire? There
22 was no electricity in there, and Mr. Fletcher had rented
23 it to the grain company and they were using it, and I
24 guess it was -- I don't know -- a year or two later they
25 finally decided what caused the fire was they had a fire

1 bug in the area and he set fire to several buildings.

2 They decided I guess -- they think he set that one, too.

3 THE COURT: The storage buildings, were there
4 drums of material stored in those storage buildings?

5 THE WITNESS: The drums were stored outside.

6 THE COURT: And where were the drums stored on
7 that site?

8 THE WITNESS: Well, along in here.

9 THE COURT: And in relation to the buildings,
10 where was the storage?

11 THE WITNESS: Well, the buildings were at this
12 end. As I recall, that building there didn't go quite
13 to the end of the property, but it was -- it would have
14 been the building with the sliding doors. Then there
15 was a small building back here but in front of it and
16 clear -- not quite to the end of the land. After this
17 building burned we used to stack drums.

18 THE COURT: Were there 55-gallon drums stored
19 on that Mill Street site?

20 THE WITNESS: Yes.

21 THE COURT: And during what time periods? If
22 we separate fifties, sixties, seventies, again, were
23 there drums stored there in the fifties?

24 THE WITNESS: I think -- I'm not sure when he
25 bought the property, but I would think it would have

1 been at the end of the fifties probably.

2 THE COURT: Were there drums stored there in
3 the sixties?

4 THE WITNESS: Yes.

5 THE COURT: And seventies?

6 THE WITNESS: Yes.

7 THE COURT: Was Pyranol stored there during
8 any of that time?

9 THE WITNESS: Some was stored there, yes.

10 THE COURT: Was this pre-forklift or post-
11 forklift? Before or after forklift that Pyranol was
12 stored there?

13 THE WITNESS: I would say after, but I'm not
14 absolutely sure about it.

15 THE COURT: And do you remember when it was
16 stored there in those 55-gallon drums, were they on the
17 sides or were they stored vertically on pallets?

18 THE WITNESS: If they was on pallets, they'd
19 be upright.

20 THE COURT: And in terms of the quantity of
21 drums that were stored there of Pyranol I'm talking
22 about now, can you give me any kind of in the tens, more
23 than a hundred, more than 200, during these periods
24 fifties, sixties, seventies.

25 THE WITNESS: Well, they stacked a lot of

1 empty drums over there, too. I'd say I don't know for
2 sure. Maybe a hundred drums. I'm entirely not sure.

3 THE COURT: I understand. You have a memory
4 of drums of chemicals being there, and you remember
5 Pyranol being there, but you don't have a specific
6 memory as to the quantities.

7 THE WITNESS: I remember empty drums being
8 stacked over there, too.

9 THE COURT: All right. Thanks.

10 Q. BY MS. FISKE: Mr. Hooper, between Webtex and
11 Kamieniki, did Mr. Fletcher ever find another outlet for
12 scrap Pyranol between those years, the end of --

13 A. The only thing that I can think of between
14 those years, and I'm not sure if it happened or not, was
15 that somebody may have bought it to put down dust, the
16 thinner Pyranol.

17 Q. But other than that you have no knowledge?

18 A. I don't remember any of it being shipped out.

19 Q. Did Mr. Fletcher ever use scrap Pyranol, the
20 thinner material, to put down dust on his own property?

21 A. Yes.

22 Q. Why did he do that?

23 A. Because it was dusty. There's gravel and sand
24 out there.

25 Q. How often did he do that?

1 A. I don't recall.

2 Q. Which part of the property did he do that on?

3 A. At the end of the building where it was
4 gravel.

5 Q. Going back to Mr. Kamieniki, who was Mr.
6 Kamieniki?

7 A. Well, he had a yard in Amherst where he -- I
8 don't know what you'd call his business really other
9 than he bought and sold stuff.

10 THE COURT: How long is your cross-examination
11 going to be?

12 MR. COWAN: Respectfully, your Honor, I think
13 maybe 90 minutes, maybe.

14 THE COURT: We are not going to -- I hate to
15 have the gentleman have to come back tomorrow, but it
16 looks like, sir, I'm going to have to have you come back
17 tomorrow because it's already four o'clock and I don't
18 want to keep everybody here too, too late.

19 MS. FISKE: I have one more line of
20 questioning. Maybe we could just see how it goes.

21 THE COURT: All right. Five minutes for you?

22 MS. FISKE: Yeah.

23 THE COURT: All right. Let's see what you can
24 do.

25 Q. Did Mr. Fletcher ever get used or waste PCB

1 material from anyone other than GE?

2 A. Yes.

3 Q. Who did he get that from?

4 A. Sprague Electric and Aerovox.

5 Q. Let's start with Aerovox. What years did Mr.
6 Fletcher get waste PCB material from Aerovox?

7 A. Well, I would say '57, '58, in that area.

8 Q. When he first started. And when did he end
9 getting it?

10 A. I don't know. We didn't go to Aerovox for too
11 long a period of time as I recall.

12 Q. So you stopped going to Aerovox sooner than
13 you stopped going to GE?

14 A. Oh, yes.

15 Q. Much sooner?

16 A. Quite a bit, yes.

17 MR. COWAN: Objection.

18 THE COURT: Overruled.

19 Q. How many years would you say you continued to
20 go to GE after you had stopped going to Aerovox?

21 A. I'm not sure. Ten years maybe. Maybe a
22 little longer.

23 Q. What about Sprague? Was that the same
24 approximate time frame as the years when you went to
25 Aerovox?

1 A. Yes.

2 Q. Did you personally drive to Sprague to obtain
3 material?

4 A. Yes.

5 THE COURT: What plant did you go to?

6 THE WITNESS: North Adams, Mass.

7 Q. How often -- withdraw. Did you ever tell
8 anyone at GE that Fletcher's was also picking up
9 material from Sprague?

10 A. I don't think so. I don't believe I ever told
11 them.

12 Q. Did you ever drive to Aerovox?

13 A. Yes.

14 Q. And where did you go at Aerovox?

15 A. Aerovox is I believe in New Bedford,
16 Massachusetts.

17 Q. Did you ever tell anyone at GE that Fletcher's
18 was also picking up material from Aerovox?

19 A. I don't believe I did.

20 Q. Can you describe the type of material that
21 Aerovox provided to Fletcher's?

22 A. Well, it was drums, and as I recall, it's
23 pretty good stuff.

24 Q. What do you mean by that?

25 A. Well, it wasn't so thinned out as GE's.

1 THE COURT: What did they call their stuff?

2 THE WITNESS: I believe -- I'm not sure, but I
3 believe that Aerovox and Sprague both called it Aroclor.

4 Q. Can you describe the type of material that
5 Sprague provided to Fletcher's?

6 A. Well, I think it was usually pretty good
7 Aroclor. Some of it may have been thinned out.

8 Q. How did it compare to the material that you
9 got from GE?

10 A. I don't really know. I never really checked
11 in a lot of the stuff. I don't recall.

12 Q. What about when you were loading the truck and
13 shaking the drums?

14 A. I don't recall.

15 MS. FISKE: Can I just have a few minutes.

16 THE COURT: While she's doing that, how long
17 did it take you to drive to Hudson Falls?

18 THE WITNESS: If I left about two in the
19 morning, I'd be there before they opened and even have
20 time to stop and get a cup of coffee.

21 THE COURT: I was just up there last weekend.
22 It's only about three hours to drive there now.

23 THE WITNESS: Well, I went with a truck. You
24 were there last weekend?

25 THE COURT: Yeah, last weekend.

1 THE WITNESS: The first time I went I wasn't
2 sure. I left earlier. I liked to get there before GE
3 opened so I could be at one of their docks because if I
4 didn't, I found out somebody else will be there at their
5 docks and I'd have to wait.

6 THE COURT: Did Mr. Fletcher have anybody else
7 besides you do these pickups from Sprague and GE and the
8 other company?

9 THE WITNESS: Yes.

10 THE COURT: Who else was doing it?

11 THE WITNESS: Juan Annata drove out, Eve
12 Hamilton, and Donald Jinks I think went out a few times.

13 THE COURT: Would you be aware when they would
14 make the trips?

15 THE WITNESS: Yes.

16 MS. FISKE: Did one of you do more of the
17 trips than the others?

18 THE WITNESS: Well, I did most of them I
19 think.

20 MS. FISKE: If you compared the total amount
21 of drums that you or people working with you picked up
22 from GE, Sprague, and the other company during the
23 entire time you were working there, how would you
24 compare in terms of numbers, the drums?

25 THE WITNESS: Well, at Aerovox, we didn't go

1 there over a long period of time. I think that both
2 Sprague Electric and Aerovox expected more money for
3 that product than General Electric did.

4 MS. FISKE: Was it your sense that you got
5 fewer drums from those two companies than you did from
6 GE?

7 THE WITNESS: Yes.

8 MS. FISKE: By a little? By a lot?

9 THE WITNESS: By a lot. Although I think we
10 got quite a bit more from Sprague than we did from
11 Aerovox.

12 THE COURT: Okay. So the least amount from
13 Aerovox, more from Sprague, and considerably more from
14 GE than either Sprague or Aerovox.

15 THE WITNESS: Yes.

16 THE COURT: Okay. Anything else?

17 MS. FISKE: Thank you, Mr. Hooper.

18 THE COURT: All right. Let's do some
19 cross-examination and see how far we get.

20 CROSS-EXAMINATION

21 BY MR. COWAN:

22 MR. COWAN: Good afternoon, Mr. Hooper. Good
23 to see you again, sir.

24 THE WITNESS: Thank you.

25 Q. I'd like to start where Ms. Fiske and the

1 judge left off, and that is your trips and your
2 colleagues' trips to Sprague and Aerovox to pick up I
3 believe you said Aroclor. Is that correct?

4 A. Scrap Aroclor.

5 Q. Scrap Aroclor?

6 A. Wait a minute. Yeah, scrap Aroclor.

7 Q. And Mr. Fletcher sent you there to collect
8 that material?

9 A. Yes.

10 Q. And Fletcher's Paint Works and Mr. Fletcher
11 paid for that material; did they not, Mr. Hooper?

12 A. I expect they did.

13 Q. I believe you just testified if your
14 understanding is correct, that Sprague and Aerovox
15 charged Mr. Fletcher more than GE charged.

16 A. I believe that's what the story was.

17 Q. And you started your trips to Sprague in the
18 fifties, early sixties?

19 A. I think I started going there about the same
20 time as I started going to General Electric.

21 Q. Is that because you started -- after that
22 initial shipment that I believe you testified that Mr.
23 Fletcher used or sold most of, he was looking for other
24 suppliers?

25 A. Yes.

1 Q. And did you find Sprague and Aerovox at the
2 same time you found GE's New York facilities?

3 A. Mr. Fletcher found them.

4 Q. When you went to Sprague to pick out the drums
5 of scrap Aroclors that Mr. Fletcher arranged to
6 purchase, did you use a truck?

7 A. Yes.

8 Q. Was it the same truck you would have used to
9 go to General Electric?

10 A. Yes.

11 Q. And that held I believe you said maybe 18
12 drums?

13 A. Well, I think the Studebaker, as I remember
14 it, held 18 drums standing up.

15 Q. Is it fair to say you were making trips to
16 Sprague -- strike that. How many years were you going
17 to Sprague to collect drums of used Aroclor?

18 A. I don't really know. Maybe a couple, two or
19 three. I'm not sure.

20 Q. Do you recall testifying in a deposition in
21 the year 2000 related to Fletcher Paint Works, Mr.
22 Hooper?

23 A. 2000?

24 Q. The year 2000.

25 A. Yeah, I probably did, yeah.

1 Q. I'm going to show you a page of your testimony
2 taken in that deposition, if I could.

3 MR. COWAN: Sorry, Judge, while we're getting
4 that. If I may come back to that.

5 THE COURT: Sure.

6 MR. COWAN: Thank you.

7 Q. Mr. Hooper, those drums from Sprague and
8 Aerovox were 55-gallon drums; correct?

9 A. Yes.

10 Q. When you brought those drums to Milford, were
11 they subjected to the same process you described before,
12 specifically painting over identifying material on
13 drums?

14 A. I think they were.

15 Q. And were those drums taken off your truck
16 offloaded in the same way at the same place at Elm
17 Street?

18 A. Yes.

19 Q. Were they stored in the same place in the same
20 manner as you would store drums from General Electric?

21 A. I don't remember that. They may have been
22 kept separately.

23 Q. Do you know if they were kept separately, sir?

24 A. Not a hundred percent sure, but I think
25 probably they were.

1 Q. And the drums from GE were mostly black; is
2 that correct?

3 A. Not necessarily. Most of them were I think,
4 but there were other colors.

5 Q. The drums from Sprague, however, were usually
6 red?

7 A. Yes, were red.

8 Q. And drums from Aerovox, do you recall those?
9 Those were usually black; isn't that right, sir?

10 A. I think probably. I'm not sure.

11 Q. I will take you back to your deposition in the
12 year 2000. And this is 2000, Volume 1, page 136.

13 MR. COWAN: I apologize, your Honor, the
14 parties only have a Minuscript of the deposition to the
15 best of my knowledge.

16 THE COURT: That's all right.

17 Q. Can you see that, sir?

18 A. Yes.

19 Q. I'm going to ask you to read starting on page
20 135, which is just in the upper right-hand quadrant.

21 THE COURT: What line?

22 MR. COWAN: Line 18, sir. There's a question,
23 if I may I'll read it, and I will ask Mr. Hooper to read
24 his answer.

25 Q. Mr. Hooper, I'm just going to refer your

1 attention to page 100 of that deposition, referring to
2 your May 21st, '92, deposition. Let me ask you to refer
3 to a question about halfway down the page. It says,
4 question, do you have any memory of how long a time
5 period it was that you got the Pyranol from Sprague
6 Electric? You said, answer, well, this is a question
7 I'm not sure of. I'd say ten years, maybe more or less.
8 I'm not sure, but we'd only go there, I don't know, once
9 or twice or three times a year there. It wasn't like
10 the other place.

11 Do you see that?

12 A. Yes.

13 Q. What was your answer, looking at page 136,
14 line 6. Are you following me, sir?

15 A. I'm following you.

16 Q. You said yup; correct?

17 A. I'm not sure.

18 Q. Sure.

19 A. I'm not sure how many years we did go there.

20 Q. But on that day am I correct that you said
21 ten years? You believe it might have been ten years?

22 A. I could have.

23 Q. But that's what you said and it's recorded in
24 the transcript; correct?

25 A. I'm really not sure.

1 MR. COWAN: Fair enough, sir.

2 THE COURT: This is the problem. If you are
3 around long enough, Mr. Hooper, you give deposition upon
4 deposition, and then you get cross-examined for your
5 inconsistencies in your depositions.

6 THE WITNESS: Mine will be inconsistent this
7 is so long ago.

8 THE COURT: I'm not in any way faulting
9 counsel for asking it. It's just for a person in your
10 position, it's got to be somewhat ironic to be asked
11 about, I show you a deposition, reflecting questions
12 about a deposition, and your memory about that.

13 MR. COWAN: There were a lot of depositions,
14 Mr. Hooper, some of which we both attended.

15 Q. Mr. Hooper, back to the Sprague drums, when
16 they were offloaded in Milford, to the extent they
17 contained used Aroclors, those were also tested for
18 viscosity or gravity; correct?

19 A. They should have been. I suspect they were.

20 Q. To the extent that was done, it would have
21 been done by Mr. Bishop; is that correct?

22 A. Probably, yes.

23 Q. I believe you testified that you recalled some
24 of those drums from Sprague may have also been thinned?

25 A. I don't remember. They could have been.

1 Q. You don't know yourself; correct?

2 A. Right offhand, I don't remember.

3 Q. Do you know a Richard Whitney?

4 A. Yes.

5 Q. Who is he, sir?

6 A. He worked at the paint factory, back out in
7 the yard and things.

8 Q. Did he work with the drums you transported
9 from GE, Sprague, and Aerovox?

10 A. Yes.

11 Q. What did he do?

12 A. Well, he helped check them in, and I know on
13 the dumping and recanning of it he worked on that, the
14 filtering of it.

15 Q. When you say dumping and recanning, you are
16 talking about the filtering process?

17 A. Yes.

18 Q. That's the process where if you had thin
19 drums, you blended it with thicker material to meet a
20 certain viscosity?

21 A. Yes. And also run it through a filter to take
22 the dirt out of it.

23 Q. And they did that for the drums in the yard?

24 A. Yes.

25 Q. You don't know one way or another, Mr. Hooper,

1 whether that was only limited to GE drums. It could
2 have involved Sprague and Aerovox drums; correct?

3 A. I don't remember.

4 Q. You don't know one way or the other?

5 A. No, I don't.

6 Q. That was Mr. Whitney's responsibility?

7 A. Right. I did work on it a couple of times,
8 but I didn't work on it too much because I was in the
9 factory. Mr. Whitney would be able to tell you a little
10 more about it than I could without a doubt.

11 Q. Earlier when Ms. Fiske showed you those
12 photos, Exhibit 50, do you remember those photos, Mr.
13 Hooper?

14 A. The ones she just showed me?

15 Q. Yes.

16 A. Yes.

17 Q. Based on those photos is it fair to say you
18 can't tell how many of those drums contain Pyranol; is
19 that correct?

20 A. No, I can't.

21 Q. As a matter of fact, you don't know what's in
22 those drums. Is that fair to say?

23 A. No. I was looking for marks on the drums and
24 I didn't see any.

25 Q. And you saw no markings that indicated any of

1 those drums came from GE; correct?

2 A. Seeing no marks on them might make me think a
3 little bit more that they'd be Pyranol because the resin
4 drums and the thinner drums and the oil drums would have
5 been marked, and I didn't see any markings on a lot of
6 those drums.

7 Q. You only saw one side of the drums in the
8 photo?

9 A. I only saw one side, yes.

10 Q. But as you saw those photos, you have no way
11 of knowing whether there was Pyranol or something else
12 in them?

13 A. Not from the photos, no.

14 Q. And to the extent there may have been Pyranol
15 there, you wouldn't know one way or another whether that
16 was from Aerovox, Sprague, or GE, would you?

17 A. No. I was looking for markings for resin and
18 oils and things we used in the paint company on those
19 drums, but I didn't see any.

20 Q. But you don't know whether or not there were
21 things like resins and other things in that batch of
22 drums?

23 A. Really offhand I don't know.

24 THE COURT: How did -- I assume since you had
25 different things there that Mr. Fletcher or people

1 working for him would need to know what chemicals were
2 where in order to get access to them, wouldn't he?

3 THE WITNESS: Well, the fellow who was working
4 outside most of the time that drove the forklift should
5 be keeping track of all that stuff.

6 THE COURT: Do you know, was there an
7 organizational system, either by marking drums or
8 storing them in certain places?

9 THE WITNESS: Yes, there was.

10 THE COURT: What was the system?

11 THE WITNESS: Well, the resin drums would have
12 been marked -- a lot of them would have been marked LOA
13 for long oil alkyne and SOA for short oil alkyne and MOA
14 for medium oil alkyne, which is different types of
15 resins.

16 The mineral spirits drums, if there were any
17 there, should have been marked MS, Xylol, XL, and VMP
18 would be on some of them if it was VMP thinner, and as I
19 said, LO for linseed oil.

20 THE COURT: What about Aroclor or Pyranol
21 drums? How would they be marked, if at all?

22 THE WITNESS: They were all painted off
23 supposedly when they came in.

24 THE COURT: And no marking would be applied to
25 them?

1 THE WITNESS: There might be a marking. Might
2 be one of the original markings on the drums that they
3 mixed. The Tri-Clean D drums had a paper label on the
4 side. That didn't always get marked off.

5 THE COURT: Were chemicals of a particular
6 type stored in particular locations?

7 THE WITNESS: They were supposed to be.

8 THE COURT: And where were the Aroclor,
9 Pyranol drums? Where were they supposed to be stored?

10 THE WITNESS: Well, some were stored down
11 along the river there, as I recall, and some in back of
12 the building, some on Mill Street. At different times
13 they were different places. You see, Mr. Fletcher moved
14 a lot of those drums when he had the yard filled in that
15 were originally there.

16 THE COURT: Thank you. Go ahead, counsel.

17 MR. COWAN: Thank you, your Honor.

18 Q. Mr. Hooper, just a few questions about
19 Aerovox. We were just talking about Sprague. Did you
20 start traveling to Aerovox to collect drums at the same
21 time you traveled to Sprague and General Electric?

22 A. About the same time I would say.

23 Q. And you went there to collect used Aroclor
24 from Aerovox that you understood Mr. Fletcher was paying
25 for?

1 A. As far as I know he was paying for it.

2 Q. And when you brought those drums back to
3 Milford, Mr. Hooper, you took those drums to the same
4 place where you offloaded and stored the drums from
5 Sprague and Aerovox; correct?

6 A. I'm not sure.

7 Q. Well, when you came back -- you drove the
8 truck.

9 A. I drove the truck and a lot of times that's
10 all I did. I didn't unload them.

11 Q. When you came back, did you park in the same
12 area you'd normally park when you came back from Sprague
13 or General Electric?

14 A. Oh, yes, I parked the same area. A lot of
15 times I'd drive the truck out to General Electric, and
16 when I came back, I didn't unload the truck. I went
17 home. I had worked more than my day then.

18 Q. The full day?

19 A. Yeah. And a lot of times I didn't unload the
20 truck.

21 Q. And that's the same when you went to Sprague
22 and Aerovox?

23 A. Yes.

24 Q. You have no reason to believe though, do you,
25 that they were stored in any different places, either

1 the drums from Aerovox or Sprague?

2 A. I think they may have been stored differently
3 to check them out to see how they were compared to
4 General Electric maybe.

5 Q. You mean when they were taken off to be
6 tested?

7 A. Yes.

8 Q. When they were brought off the truck, was it
9 your understanding that they were painted over to
10 obscure the origin?

11 A. I believe they were.

12 Q. And Mr. Fletcher ordered that so that his
13 customers wouldn't know where the material was coming
14 from; correct?

15 A. I guess that's right.

16 Q. And you did that for every drum or it's your
17 understanding it was done for every drum of used Aroclor
18 or scrap Pyranol that came in; correct?

19 A. Yes.

20 Q. When you were a paint mixer, Mr. Hooper, you
21 in fact used some used Aroclors or scrap Pyranol in the
22 manufacture of paint; correct?

23 A. Rubber-based paint only. That's the only one
24 I recall using it in.

25 Q. As you sit here today, you can't tell us one

1 way or the other whether you only used GE or maybe you
2 used some from Sprague or Aerovox?

3 A. I couldn't tell you that, no.

4 Q. And that's because when someone went to the
5 yard to collect the material, they'd just collect it
6 from a drum and they didn't know where that drum had
7 come from; correct?

8 A. I'm not sure.

9 Q. Did you ever go in the yard and collect the
10 Pyranol?

11 A. Usually the chemist had a drum brought in.

12 Q. And that was Mr. Bishop?

13 A. Mr. Bishop in those days.

14 Q. Now, you mentioned that some of the drums --
15 some of the thin material was blended with thicker
16 material?

17 A. Yes.

18 Q. And that was designed to raise the viscosity?

19 A. Yes.

20 Q. Once that viscosity was raised, that material
21 was then sold or used by Mr. Fletcher; is that correct,
22 Mr. Hooper?

23 A. He did that for Webster Cement.

24 Q. So he did that for Webster, and once he raised
25 the viscosity, he sold the material to Webster?

1 A. They would buy a certain amount of the thinner
2 and certain amount of the good. A lot of times as I
3 recall the shipments would have real good Pyranol and
4 half were thinned out. He started doing that, mixing it
5 and filtering it, after Webtex brought some back that
6 they couldn't use because it was too thin or whatever.

7 Q. But Webster did buy some thin material;
8 correct?

9 A. Yes.

10 Q. And they bought the thicker material?

11 A. Yes.

12 Q. And they paid two different prices for that
13 material; is that correct?

14 A. I believe they did.

15 Q. So Mr. Fletcher wanted to get the higher
16 price; is that correct?

17 A. Yes.

18 Q. So he decided to blend it?

19 A. Well, he got rid of a lot of the thin stuff
20 that way.

21 Q. By blending it and then selling it to Webster?

22 A. Yes, by blending it and filtering it.

23 Q. And Mr. Whitney I believe you said was
24 primarily responsible for that?

25 A. He worked on that quite a bit.

1 Q. And are you familiar -- were you familiar at
2 the time, Mr. Hooper, with Webster or Webster Cement?

3 A. The only thing I know about them was their
4 truck drivers.

5 Q. Do you know what kind of products they
6 manufacture, sir?

7 A. Yes.

8 Q. And how did you know that?

9 A. Because Mr. Fletcher sold him the stores.

10 Q. What did he sell?

11 A. We sold roof resurfacer, both black and
12 aluminum resurfacer, roof cement, and linoleum adhesive
13 and tile adhesive that I can remember of that came from
14 Webster Company, and they would bring the cans up when
15 they picked up Pyranol, and they would be stenciled as
16 to what was in them. Mr. Fletcher put his own labels on
17 them.

18 Q. So Mr. Fletcher would buy product from Webster
19 and put his own label on it?

20 A. Yeah, and sell it in his stores.

21 Q. You knew that product was roof coating or
22 other materials that Webster manufactured?

23 A. Yes.

24 Q. Other than the things you listed today in
25 court, you have no reason to believe Webster was

1 manufacturing anything else, do you?

2 A. I'm not sure of all their products.

3 Q. Of the products you listed, do you know of any
4 beyond that?

5 A. No, I don't. At least I don't recall any.

6 Q. It's true, is it not, Mr. Hooper, that
7 Fletcher often sold scrap Pyranol as he received it as
8 is from GE to Webster; is that correct?

9 A. The real good Pyranol they liked.

10 Q. And he would sell it directly to Webster?

11 A. As I recall he did, yes.

12 Q. In the very drum that he purchased from GE?

13 A. Yes.

14 Q. So there was material he sold directly to
15 Webster as is; correct?

16 A. Right.

17 Q. And it's also correct that he blended thin
18 material with some thicker material, drummed it, and
19 sold that to Webster?

20 A. That's right, yes.

21 Q. And then there are some other thin material,
22 he sold it as is to Webster as well?

23 A. Other thin material?

24 Q. Yes. You testified I believe that he sold
25 thin material to Webster at a different price.

1 A. Well, the thinned out after it had been dumped
2 and mixed and filtered, I believe the price was cheaper
3 on it.

4 Q. So to the extent just so -- I want to make
5 sure I understand you, Mr. Hooper. To the extent Mr.
6 Fletcher had thinned out Pyranol or used Aroclors --
7 because it's true, is it not, you don't know one way or
8 the other whether all the thin material came from GE.
9 Is that true?

10 A. Well, I couldn't swear to it.

11 Q. So the thin material was mixed with thicker
12 material, sold to Webster at a cheaper price?

13 A. Yes. They sent some to Webster Cement, and
14 they returned it because it was too thin at one time
15 there, and I believe it was after that that he started
16 to bring the viscosity up on it so that Webster would
17 take it.

18 Q. Now, this blending and filtering, Mr. Hooper,
19 did you ever tell anyone at GE that this was happening?

20 A. No, I don't think so.

21 Q. Did you tell anyone at GE that Mr. Fletcher
22 was selling material to Webster or anyone else?

23 A. No, I never told them what he was doing with
24 it.

25 Q. Did anyone from GE ever ask you what he was

1 doing with it?

2 A. Yes.

3 Q. Who asked you?

4 A. Well, I think Mr. Metevier might have, but I
5 remember that two or three fellows that worked there in
6 the salvage area that run the forklifts and things did
7 ask me. They tried to find out what Mr. Fletcher was
8 doing with the stuff.

9 Q. And you never told them?

10 A. I was told not to tell them.

11 Q. Who told you not to tell them?

12 A. Mr. Fletcher.

13 Q. You earlier testified that Mr. Metevier made a
14 trip to Milford to visit the paint factory.

15 A. Yes.

16 Q. When he was on that trip, did he ask you what
17 Mr. Fletcher was doing with the Pyranol?

18 A. While he was in Milford?

19 Q. Yes.

20 A. No, I don't think so.

21 Q. Did you tell him -- sorry, are you finished,
22 sir?

23 A. No.

24 Q. And you didn't tell him what you were doing
25 with it at the time, did you?

1 A. No. I'm sure I didn't.

2 Q. You didn't tell him about the Webster sales,
3 did you?

4 A. No. I think that would have been before the
5 Webster sales.

6 Q. And you testified that when -- there was a
7 point at which you seem to recall there may have been
8 someone at Fletcher's applied some of the thin scrap
9 Pyranol or used Aroclor as a dust suppressant. You
10 didn't tell that to Mr. Metevier, did you?

11 A. I don't think I told him anything like that.

12 Q. Let's talk a little bit about Mr. Fletcher
13 himself and his business since, Mr. Hooper. Earlier
14 today you testified, correct me if I'm wrong, he owned
15 or ran a duplicating business; correct?

16 A. Duplicating supply company.

17 Q. I apologize. And a perfume business?

18 A. Yes.

19 Q. He manufactured and sold driveway sealants?

20 A. Yes.

21 Q. And he had a lumber or construction company?

22 A. Yes.

23 Q. And a paper company?

24 A. Yes.

25 Q. And am I correct that for all of these

1 businesses, he collected or acquired chemicals as needed
2 for the manufacturing process?

3 A. Yes.

4 Q. And these were stored at Elm Street; correct?
5 Some were stored at Elm Street?

6 A. Some were stored at Elm Street, some were
7 stored at Mill Street, and sometimes he stored stuff at
8 the property he owned downeast, Milford.

9 Q. And it's fair to describe Mr. Fletcher as a
10 successful businessman?

11 A. Well, he was good at it. I would say he was
12 successful.

13 Q. And his businesses were successful; correct?

14 A. Yes.

15 Q. And he was a sophisticated businessman, all
16 things considered; correct?

17 A. Sophisticated?

18 MS. FISKE: Object.

19 A. I don't know what you mean.

20 Q. Fair enough. He was a good businessman
21 though, wasn't he?

22 A. He was a good salesman, I will tell you that.

23 Q. When he acquired materials, chemicals
24 included, he acquired them with an eye toward using them
25 in his business to make money; correct?

1 A. Not necessarily. Well, to make money, yes.

2 He didn't use them all in his business.

3 Q. But the Pyranol that we have been talking
4 about today, you understand that he did use some of that
5 material in his paint business?

6 A. Yes, small amount.

7 Q. And he sold a substantial portion of it to
8 other customers; correct?

9 A. Yes.

10 Q. Including Webster?

11 A. Yes.

12 Q. Including other customers you can't recall
13 today?

14 A. Yes.

15 Q. Mr. Nutter and Mr. Hamilton were other drivers
16 who traveled to collect --

17 A. Mr. Jenks.

18 Q. And Mr. Jenks. They all drove to collect used
19 Aroclors from Sprague or Aerovox?

20 A. I'm not sure about Sprague and Aerovox, but
21 they all went to General Electric.

22 Q. You don't know one way or another, Mr. Hooper,
23 whether those gentlemen -- what conversations they may
24 have had with anyone at General Electric?

25 A. No, I don't.

1 Q. Do you know a gentleman by the name of John
2 Racicot, Mr. Hooper?

3 A. Yes.

4 Q. Did he work at Milford Paint Works?

5 A. Yes.

6 Q. Did he work with you?

7 A. Some of the time.

8 Q. Did he work with you in the paint-mixing
9 operations?

10 A. He did, yes.

11 Q. Did you ever tell Webster where Mr. Fletcher
12 was purchasing his used Aroclors or Pyranols?

13 A. I never did.

14 Q. There was nothing on the drums that would
15 indicate where they came from when Webster purchased
16 them; correct?

17 A. There wasn't supposed to be.

18 Q. When you made your pickups at General
19 Electric, Mr. Hooper, you never toured their
20 manufacturing process?

21 A. No.

22 Q. Facility I should say.

23 A. No.

24 Q. You have no idea how or where they were
25 collecting the used Pyranol, do you?

1 A. Nothing other than what they told me.

2 Q. And they told you the used Pyranol came from
3 the capacitor fill process; isn't that correct?

4 A. As I recall, they told me that the thinned out
5 Pyranol had been -- when they cleaned the tanks or
6 whatever equipment they used for the weekend or
7 whatever, they would clean them and it would contain
8 Aroclor and the degreaser there, the cleaner, and I
9 think I remember guys telling me there that sometimes
10 that when they build some of these transformers, Aroclor
11 ran over into something or Pyranol ran over into some
12 sort of a truck and it was caught in a barrel, too.

13 Q. And that was your understanding of --

14 A. But I was never in their manufacturing.

15 Q. I'm sorry. You never toured the factory?

16 A. No.

17 Q. Let me take you back a second to Fletcher's
18 operation, the paint factory at Milford. When the drums
19 were stored, it's true, is it not, that Mr. Fletcher
20 asked someone to make sure as the drums are being stored
21 that they were being taken care of and they weren't
22 leaking, for example? Someone had that responsibility?

23 A. They were supposed to.

24 Q. And from the time you started working at the
25 paint factory to the time you left in '87, or certainly

1 through at least the seventies, someone was supposed to
2 have that responsibility?

3 A. Yes.

4 Q. And the reason that Mr. Fletcher asked if that
5 happened is he wanted to make sure that he didn't lose
6 any of this material; correct?

7 MS. FISKE: Objection.

8 THE COURT: Sustained.

9 A. Well, that can contaminate the ground I guess.

10 THE COURT: I will take his answer but not as
11 to what Mr. Fletcher knew. You have to lay a
12 foundation.

13 MR. COWAN: Fair enough, Judge.

14 Q. Did you talk to Mr. Fletcher about why he
15 wanted to ensure that someone was monitoring the drums?

16 A. Did I tell Mr. Fletcher?

17 Q. Did you have a conversation with Mr. Fletcher
18 about it?

19 A. I don't know that I did. Whoever worked in
20 the backyard and drove the forklift was supposed to
21 watch that backyard for leaking drums and things.

22 Q. That was someone's responsibility?

23 A. Yes.

24 Q. It wasn't yours?

25 A. No.

1 Q. You had a gallbladder operation at some point,
2 didn't you, Mr. Hooper?

3 A. Oh, I sure did.

4 Q. That was 1970?

5 A. I believe it was 1970.

6 Q. 1970. And you were still making trips to
7 General Electric at that time, weren't you?

8 MS. FISKE: Objection.

9 THE COURT: Overruled.

10 A. I'm not absolutely sure that I was. I was
11 thinking that I was, but then when I thought afterwards
12 I'm not so sure. But I did have a gallbladder
13 operation. I was out of work three weeks in January I
14 believe it was and another three weeks in April when
15 they did the operation.

16 Q. Do you remember testifying previously that you
17 made trips to General Electric after that gallbladder
18 operation?

19 A. That's what I've been trying to remember,
20 whether I did or not.

21 Q. Whether you testified or --

22 THE COURT: I will take it as a given. I'm
23 sure you wouldn't represent it to me if it weren't true.
24 Just a minute, sir. I will assume that he did
25 previously testify to that. His current testimony is

1 I'm not sure and -- I'm trying to remember and I'm not
2 sure. Right?

3 THE WITNESS: Right.

4 MR. COWAN: Sure.

5 Q. And you testified before that at some point
6 Webster was purchased by another company?

7 A. Yes.

8 Q. And you still recall making trips -- strike
9 that. You still remember that that other company bought
10 some drums of used Aroclor or Pyranol from Fletcher;
11 correct?

12 A. After they purchased Webtex?

13 Q. Yes.

14 A. Yes, I believe I took a few loads. I don't
15 remember how many.

16 Q. And you left the company in 1987 due to your
17 heart attack; correct?

18 A. Yes.

19 Q. At the time you left -- strike that. Was the
20 sale to Mr. Kamieniki that you testified to before or
21 after you left the company to the best --

22 A. That was before or after.

23 Q. And he took the bulk of the drums that were
24 still stored on site?

25 A. Yeah, he took a lot of the drums that -- as I

1 recall, the drums that nobody was sure what they were,
2 and he took quite a few drums as I recall.

3 THE COURT: Hang on just a minute, sir.

4 (Pause.)

5 THE COURT: My reporter has to stay in the
6 building tonight anyways because in case we have
7 election challenges, and she's willing to stay a little
8 bit later. She needs a little break. So what I propose
9 we do -- let me ask you, sir. Where do you live?

10 THE WITNESS: Mont Vernon.

11 THE COURT: And is that about an hour drive
12 from here?

13 THE WITNESS: Three quarters of an hour to an
14 hour.

15 THE COURT: Would it be your preference to
16 stop for the day and come back tomorrow, or would it be
17 your preference to take a little break and try to finish
18 with your testimony today?

19 THE WITNESS: Well, doesn't really make any
20 difference, other than I'd like to get back in time to
21 vote tonight.

22 THE COURT: Well, I don't want anybody to miss
23 voting. I doubt you will have huge lines in Mont
24 Vernon.

25 THE WITNESS: I doubt it, too.

1 THE COURT: There aren't that many people in
2 the town to really have to worry about it. Polls
3 probably close at seven there I assume.

4 THE WITNESS: Yes.

5 THE COURT: We wouldn't want to go much past
6 like 5:15 just to be sure to get you home in time. You
7 don't mind coming back tomorrow?

8 THE WITNESS: No, I don't mind.

9 THE COURT: I don't want him to be worried
10 about missing his chance to vote. So I think it's
11 probably better to let him go home tonight, come back
12 tomorrow, and we'll try to finish up tomorrow, okay?
13 I'm sorry to make you come back, but I think that's
14 safer than making you worry you don't get there by
15 seven. So let's just play it safe here and stop for the
16 day and come on back a little before nine and we'll
17 finish with you tomorrow, okay?

18 THE WITNESS: All right. Somebody has to pick
19 me up.

20 THE COURT: Oh, you need to be driven?

21 MS. FISKE: We can take care of that.

22 THE COURT: Okay. The vast resources of the
23 federal government.

24 MS. FISKE: 9:00 tomorrow morning?

25 THE COURT: Yes, 9:00. Thank you.

1 (Adjourned at 4:40 p.m.)

2 C E R T I F I C A T E

3

4 I, Diane M. Churas, do hereby certify that the
5 foregoing transcript is a true and accurate
6 transcription of the within proceedings, to the best of
7 my knowledge, skill, ability and belief.

8

Submitted: 2/2/09

9

10 /s/ Diane M. Churas _____
DIANE M. CHURAS, CSR, CRR

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